

Sip 74-Sec 400

400. ELIGIBILITY FOR BENEFITS AND DISQUALIFICATION FROM BENEFITS

The Federal law contains no requirements concerning eligibility and disqualification provisions except the labor standard provisions (sec. 440). Each State establishes its requirements which an unemployed worker must meet to receive unemployment insurance. All State laws provide that, to receive benefits, a claimant must be able to work and must be available for work; i.e., he must be in the labor force, and his unemployment must be caused by lack of work. Also he must be free from disqualification for such acts as voluntary leaving without good cause, discharge for misconduct connected with the work, and refusal of suitable work. These eligibility and disqualification provisions delineate the risk which the laws cover: the able-and-available tests as positive conditions for the receipt of benefits week by week, and the disqualifications as a negative expression of conditions under which benefits are denied. The purpose of these provisions is to limit payments to workers unemployed primarily as a result of economic causes. The eligibility and disqualification provisions apply only to claimants who meet the qualifying wage and employment requirements discussed in section 310.

In all States, claimants who are held ineligible for benefits because of inability to work, unavailability for work, or disqualification are entitled to a notice of determination and an appeal from the determination.

405 ABILITY TO WORK

Only minor variations exist in State laws setting forth the requirements concerning ability to work. A few States do specify that a claimant must be physically able or mentally and physically able to work. One evidence of ability to work is the filing of claims and registration for work at a public employment office, required under all State laws.

Several States (Table 400) have added a proviso that no claimant who has filed a claim and has registered for work shall be considered ineligible during an uninterrupted period of unemployment because of illness or disability, so long as no work, which is suitable but for the disability, is offered and refused. In Massachusetts the period during which benefits will be paid is limited to 3 weeks. These provisions are not to be confused with the special programs in six States for temporary disability benefits (ch. 600).

410 AVAILABILITY FOR WORK

Available for work is often translated to mean being ready, willing, and able to work. Meeting the requirement of registration for work at a public employment office is considered as some evidence of availability. Nonavailability may be evidenced by substantial restrictions upon the kind or conditions of otherwise suitable work that a claimant can or will accept, or by his refusal of a referral to suitable work made by the employment service or of an offer of suitable work made by an employer. A determination that a claimant is unable to work or is unavailable for work applies to the time at which he is giving notice of unemployment or for the period for which he is claiming benefits.

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The availability-for-work provisions have become more varied than the ability-to-work provisions. Some States provide that a claimant must be available for suitable work; others incorporate the concept of suitability for the individual claimant in terms of work in his usual occupation or for which he is reasonably fitted by training and experience (Table 400). Delaware requires an involuntarily retired worker to be available only for work which is suitable for an individual of his age or physical condition.

Georgia specifies the conditions under which individuals on vacation are deemed unavailable, and limits to 2 weeks in any calendar year the period of unavailability of individuals who are not paid while on a vacation provided in an employment contract or by employer-established custom or policy. North Carolina considers as unavailable a claimant whose unemployment is found to be caused by a vacation for a period of 2 weeks or less in a calendar year.

In Nebraska and New Jersey no claimant is deemed unavailable for work solely because he is on vacation without pay if the vacation is not the result of his own action as distinguished from any collective bargaining or other action beyond his individual control. Under New York law an agreement by an individual or his union or representative to a shutdown for vacation purposes is not of itself considered a withdrawal from the labor market or unavailability during the time of such vacation shutdown. Other provisions relating to eligibility during vacation periods--although not specifically stated in terms of availability--are made in Virginia, where an individual is eligible for benefits only if he is found not to be on a bona fide vacation, and in Washington, where it is specifically provided that a cessation of operations by an employer for the purpose of granting vacations shall not be construed to be a voluntary quit or voluntary unemployment. Tennessee does not deny benefits during unemployment caused by a plant shutdown for vacation, providing the individual does not receive vacation pay.

Alabama, Michigan, Ohio, and South Carolina require that a claimant be available for work in a locality where his base-period wages were earned or in a locality where similar work is available or where suitable work is normally performed. Illinois considers an individual to be unavailable if, after separation from his most recent work, he moves to and remains in a locality where opportunities for work are substantially less favorable than those in the locality he left. Arizona requires that an individual be, at the time he files a claim, a resident of Arizona or of another State or foreign country that has entered into reciprocal arrangements with the State.

Michigan and West Virginia require that a claimant be available for full-time work. In Wisconsin--where a claimant may be required at any time to seek work and to supply evidence of such search--the inability and unavailability provisions are in terms of weeks for which he is called upon by his current employer to return to work that is actually suitable and in terms of weeks of inability to work or unavailability for work, if his separation was caused by his physical inability to do his work or his unavailability for work. Oklahoma's law requires an individual to be able to work and available for work and states also that mere registration and reporting at a local employment office is not conclusive evidence of ability to work, availability for work or willingness to work. In addition, the law requires, where appropriate, an active search for work.

415 ACTIVELY SEEKING WORK

In addition to registration for work at a local employment office, most State laws require that a claimant be actively seeking work or making a reasonable effort to obtain work. Tennessee specifically provides that an active or independent search for work is not required as evidence of availability.

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The Oregon requirement is in terms of "actively seeking and unable to obtain suitable work." In Oklahoma, Vermont, Washington, and Wisconsin, the provision is not mandatory; the agency may require that the claimant, in addition to registering for work, make other efforts to obtain suitable work and give evidence of such efforts. In Wisconsin, however, an active search is required if the claimant is self-employed, if the claim is based on employment for a corporation substantially controlled by the claimant or his family, or if a woman is unemployed subsequent to the ineligibility imposed as a result of pregnancy and childbirth. Michigan permits the commission to waive the requirement that an individual must seek work, except in the case of a claimant serving a disqualification, where it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which he has earned base-period credit weeks. The New Jersey law permits the director to modify the active search-for-work requirement when, in his judgment, such modification is warranted by economic conditions.

420 AVAILABILITY DURING TRAINING

Special provisions relating to the availability of trainees and to the unavailability of students are included in many State laws. The student provisions are discussed in section 450.03.

Beginning in 1972 the FUTA requires, as a condition for employers in a State to receive normal tax credit, that all State laws provide that compensation shall not be denied to an otherwise eligible individual for any week during which he is attending a training course with the approval of the State agency. In addition, the State law must provide that such individuals not be held ineligible or disqualified for being unavailable for work, for failing to make an active search for work, or for failing to accept an offer of, or for refusal of, suitable work.

Prior to the enactment of the Federal law, more than half the States had provisions in their laws for the payment of benefits to individuals taking training or retraining courses. The requirement of the Federal law does not extend to the criteria that States must use in approving training. Although some State laws have set forth the standards to be used, many do not specify what types of training. Generally, approved training is limited to vocational or basic education training, thereby excluding regularly enrolled students from collecting benefits under the approved training provision.

Massachusetts and Michigan, in addition to providing regular benefits while the claimant attends an industrial retraining or other vocational training course, provide extended benefits equal to 18 times the trainees' weekly benefits rate (sec. 335.03).

While in almost all States the participation of claimants in approved training courses is voluntary, in the District of Columbia, Michigan, and Missouri, an individual may be required to accept such training.

425 DISQUALIFICATION FROM BENEFITS

The major causes for disqualification from benefits are voluntary separation from work, discharge for misconduct, refusal of suitable work, and unemployment resulting from a labor dispute. The disqualifications imposed for these causes vary considerably among the States. They may include one or a combination of the following: a postponement of benefits for some prescribed period, ordinarily in addition to the waiting period required of all claimants; a cancellation of benefit rights; or a reduction of benefits otherwise payable. Unlike the status of unavailability for work or inability

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to work, which is terminated as soon as the condition changes, disqualification means that benefits are denied for a definite period specified in the law, or set by the administrative agency within time limits specified in the law, or for the duration of the period of unemployment.

The disqualification period is usually for the week of the disqualifying act and a specified number of consecutive calendar weeks following. Exceptions in which the weeks must be weeks following registration for work or meeting some other requirement are noted in Tables 401, 402, 403 and 404. The theory of a specified period of disqualification is that, after a time, the reason for a worker's continued unemployment is more the general conditions of the labor market than his disqualifying act. The time for which the disqualifying act is considered the reason for a worker's unemployment varies among the States and among the causes of disqualification. It varies from 3 weeks, in addition to the week of occurrence, in Puerto Rico to 1-26 weeks in Texas. In two States the maximum disqualification period for one or more causes may leave only one week of benefits payable to the claimant.

A number of States have a different theory for the period of disqualification. They disqualify for the duration of the unemployment or longer by requiring a specified amount of work or wages to requalify or, in the case of misconduct connected with the work, by canceling a disqualified worker's wage credits. The provisions will be discussed in consideration of the disqualifications for each cause.

Instead of the usual type of disqualification provisions, Colorado pays or denies benefits under a system of awards. A "full award"--i.e., no disqualification--is made if the worker is laid off for lack of work or his separation is the result of one of several situations described in detail in the law. Fifty percent of the full award (one-half of the weekly benefit amount and one-half of potential benefits in the benefit year) is made if the claimant was discharged or quit work under specified circumstances in which, presumably, both employer and worker shared responsibility for the work separation. The law also lists in detail the conditions under which a worker might be separated from work and which would require a determination of "no award"--that is, no base period, benefit year, or valid claim may be established on such wages; and any base period, benefit year, or valid claim previously established is invalidated.

Similarly, a system of special awards, prescribing conditions under which a "full" or "no" award is made, appears in the Colorado law, applicable to separations because of pregnancy, family obligations, and, by regulation, to other conditions reflecting a separation from active attachment to the labor force (Tables 406 and 407). Finally, under a provision for "optional awards" supplemented by regulation, the employment security agency may grant one of the four foregoing types of awards for separations arising from a specified list of situations, as well as other situations not specifically covered under the other award provisions.

In less than half the States are the disqualifications imposed for all three major causes--voluntary leaving, discharge for misconduct, and refusal of suitable work--the same. This is partially because the 1970 amendments to the Federal law prohibited the denial of benefits by reason of cancellation of wage credits except for misconduct in connection with the work, fraud in connection with a claim, or receipt of disqualifying income. As may be expected, therefore, discharge for misconduct is most often the cause with the heaviest penalty.

The provisions for postponement of benefits and cancellation of benefits must be considered together to understand the full effect of disqualification. Disqualification for the duration of the unemployment may be a slight or a severe penalty for an individual claimant, depending upon the duration of his unemployment which, in turn,

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depends largely upon the general condition of the labor market. When cancellation of the benefit rights based on the work left is added, the severity of the disqualification depends mainly upon the duration of the work left and the presence or absence of other wage credits. Disqualification for the duration of the unemployment and cancellation of all prior wage credits tend to put the claimant out of the system. If the wage credits canceled extend beyond the base period for the current benefit year, cancellation extends into a second benefit year immediately following.

In Colorado and Michigan, where cancellation of wage credits may deny all benefits for the remainder of the benefit year, the claimant may become eligible again for benefits without waiting for his benefit year to expire. See Table 300, footnote 5, for provisions for cancellation of the current benefit year. Although this provision permits a claimant to establish a new benefit year and draw benefits sooner than he otherwise could, he would be eligible in the new benefit year generally for a lower weekly benefit amount or shorter duration, or both, because part of the earnings in the period covered by the new base period would already have been canceled or used for computing benefits in the canceled benefit year.

430 DISQUALIFICATION FOR VOLUNTARILY LEAVING WORK

In a system of benefits designed to compensate wage loss due to lack of work, voluntarily leaving work without good cause is an obvious reason for disqualification from benefits. All States have such a disqualification provision.

In most States disqualification is based on the circumstances of separation from the *most recent* employment. Laws of these States condition the disqualification in such terms as "has left his *most recent* work voluntarily without good cause" or provide that the individual will be disqualified for the week in which he has left work voluntarily without good cause, if so found by the commission, and for the specified number of weeks which *immediately* follow such week. Most States with the latter provision interpret it so that any bona fide employment in the period specified terminates the disqualification, but some States interpret the provision to continue the disqualification until the end of the period specified, regardless of intervening employment.

In a few States the agency looks to the causes of all separations within a specified period (Table 401, footnote 4). Michigan and Wisconsin, which compute benefits separately for each employer to be charged, consider the reason for separation from each employer when his account becomes chargeable.

430.01 Good cause for voluntary leaving.--In all States a worker who leaves his work voluntarily must have good cause (in Connecticut, sufficient cause; in Ohio, just cause; and in Pennsylvania, cause of a necessitous and compelling nature) if he is not to be disqualified.

In many States good cause for leaving work appears in the law as a general term, not explicitly restricted to good cause related to the employment, thus permitting interpretation to include good personal cause. However, in a few of these States, it has been interpreted in the restrictive sense.

Several States, where the disqualification for leaving work is in terms of general good cause, also specify various circumstances relating to work separations that, by statute, require a determination that the worker left with good cause. In California and Indiana separations are held to be with good cause if employment is terminated under a compulsory retirement provision of a collective-bargaining agreement; in Massachusetts, if the claimant was required to retire under a pension plan, notwithstanding his prior assent to the establishment of the program; and in

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Rhode Island, if he leaves work pursuant to a public or private plan providing for retirement, if he is otherwise eligible. New York provides that voluntary leaving is not in itself disqualifying if circumstances developed in the course of employment that would have justified the claimant in refusing such employment in the first place.

A few States--in addition to those where good cause is restricted to that attributable to the employer--specify that no disqualification shall be imposed if the claimant left work to accept other work or to enter the Armed Forces of the United States: in Massachusetts if he left in good faith to accept new, permanent full-time work from which he was subsequently separated for good cause attributable to the employing unit; and in Indiana and Ohio, if the separation was for the purpose of entering the Armed Forces.

In many States (Table 401) good cause is specifically restricted to good cause connected with the work or attributable to the employer, or, in West Virginia, involving fault on the part of the employer. Louisiana and Montana disqualify persons who left work and do not specify voluntary leaving. Most of these States modify, in one or more respects, the requirement that the claimant be disqualified if the separation was without good cause attributable to the employer or to the employment.

The most common exceptions are those provided for separations because of the claimant's illness¹ and those for the purpose of accepting other work². The provisions relating to illness, injury, or disability usually state the requirements that the claimant must meet in regard to submitting a doctor's certificate, notifying the employer, returning to work upon recovery, and making reasonable effort to preserve job rights. Exceptions also are made, under specified conditions, in Arkansas for separations for compelling personal reasons, and, in Colorado, Iowa, and Wisconsin for compelling reasons including illness of a spouse, dependent child, or other members of the immediate family. Arkansas also makes an exception for an individual who leaves work to accompany his spouse providing he immediately enters the labor market and is available for work at his new residence.

The exceptions concerning separations to accept other work usually require that the new work be "better" than the work left and that the claimant shall have remained in such work for a specified period. In Georgia the provision is applied at the discretion of the agency.

Alabama, Connecticut, Florida, Iowa, Missouri, and West Virginia make an exception if an individual, on layoff from his regular employer, quits other work to return to his regular employment; in Alabama if he returns to employment in which he had prior existing statutory or contractual seniority or recall rights; in Michigan if he leaves his work to accept permanent full-time work with another employer and performs services for such employer, or leaves to accept a recall from a former employer, he is not subject to disqualification; and in Indiana his reduced benefit rights will be restored if he leaves to accept recall from a base-period employer or to accept better permanent full-time work, works at least 10 weeks in such new job, and becomes unemployed under nondisqualifying circumstances. Exceptions also are made in Connecticut if a claimant leaves work to return to his regular apprenticeable trade or if he leaves work solely by reason of governmental regulation or statute; in Ohio if the leaving is to accept a recall from a prior employer or to accept other covered work within 7 days if he works at least 3 weeks and earns the lesser of 1-1/2 times his average weekly wage or \$180 in such work. Ohio also exempts leaving pursuant to an agreement permitting an employee to accept a lack-of-work separation and leaving unsuitable employment that was concurrent with other suitable employment.

¹/Ala., Ark., Colo., Del., Fla., Ind., Iowa, Maine, Minn., Mont., N.H. (by regulation), Tenn., Vt. and Wis.

²/Ala., Colo., Conn., Fla., Ga., Ind., Iowa, Mich., Minn., Mo., and W.Va.

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New Hampshire allows benefits if an individual, not under disqualification, accepts work that would not have been suitable and terminates such employment within 4 weeks. In Tennessee, if the claimant left work in good faith to join the Armed Forces, such individual is not disqualified.

430.02 Period of disqualification.--In some States the disqualification for voluntary leaving is a fixed number of weeks; the longest period in any one of these States is 12 weeks (Table 401). Other States have a variable disqualification; the maximum period under these provisions is 25 weeks in Colorado and Texas. In the remaining States the disqualification is for the duration of the individual's unemployment--in most of these States, until the claimant is again employed and earns a specified amount of wages.

430.03 Reduction of benefit rights.--In many States, in addition to the postponement of benefits, benefit rights are reduced, usually equal in extent to the weeks of benefit postponement imposed. In Colorado, under the no-award provision, all wages earned prior to the separation from work are reduced up to 25 times the weekly benefit amount (sec. 425). If the claimant is disqualified under conditions indicating that the individual contributed to, but was not wholly responsible for, incompatibility with a supervisor or fellow employees, a "fifty percent of a full award" is required, under which the claimant would receive one-half of the award to which such claimant would otherwise have been entitled. Wisconsin postpones for 4 weeks benefit rights earned with earlier employers. In Wyoming the individual disqualified for voluntarily leaving without good cause forfeits 90 percent of all accrued benefits and is disqualified for all but 1 week of benefits.

430.04 Relation to availability provisions.--A claimant who is not disqualified for leaving work voluntarily with good cause is not necessarily eligible to receive benefits. If the claimant left because of illness or to take care of illness in the family, such claimant may not be able to work or be available for work. In most States the ineligibility for benefits would extend only until the individual was able to work or was available for work, rather than for the fixed period of disqualification for voluntary leaving.

435 DISCHARGE FOR MISCONDUCT CONNECTED WITH THE WORK

The provisions for disqualification for discharge for misconduct follow a pattern similar but not identical to that for voluntary leaving. There is more tendency to provide disqualification for a variable number of weeks "according to the seriousness of the misconduct." In addition, many States provide for heavier disqualification in the case of discharge for a dishonest or a criminal act, or other acts of aggravated misconduct.

Some of the State laws define misconduct in the law in such terms as "willful misconduct" (Connecticut and Pennsylvania); "deliberate misconduct in willful disregard of the employing unit's interest" (Massachusetts); "failure to obey orders, rules or instructions or the failure to discharge the duties for which he was employed" (Georgia); and a breach of duty "reasonably owed an employer by an employee" (Kansas). Kentucky provides that "legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct." Detailed interpretations of what constitutes misconduct have been developed in each State's benefit decisions.

Disqualification for discharge for misconduct, as that for voluntary leaving, is usually based on the circumstances of separation from the most recent employment. However, as indicated in Table 402, footnote 3, in a few States the statute requires consideration of the reasons for separation from employment other than the most

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recent. The disqualification is applicable to any separation within the base period for a felony or dishonesty in connection with the work in Ohio, and for a felony in connection with the work in New York.

435.01 Period of disqualification.--About half of the States have a variable disqualification for discharge for misconduct (Table 402). In some the range is small, e.g., the week of occurrence plus 2 to 6 weeks in Alabama and 2 to 7 weeks in Nebraska; in other States the range is large, e.g., 7 to 24 weeks in South Dakota and 1 to 26 weeks in Texas. Many States provide flat disqualification, and others disqualify for the duration of the unemployment or longer. (Florida, Illinois, Maine, North Dakota, Oregon, and Washington provide two periods of disqualification). Some States reduce or cancel all of the claimant's benefit rights.

Many States provide for disqualification for disciplinary suspensions as well as for discharge for misconduct. A few States provide the same disqualification for both causes (Table 402, footnote 1). In the other States the disqualification differs as indicated in Table 402, footnote 7).

435.02 Disqualification for gross misconduct.--Twenty-four States provide heavier disqualification for what may be called gross misconduct. These disqualifications are shown in Table 403. In 3 of the States, the disqualification runs for 1 year; in 9 States, for the duration of the individual's unemployment; and in 14 States, wage credits are canceled in whole or in part, on a mandatory or optional basis.

The conditions specified for imposing the disqualification for discharge for gross misconduct are in such terms as: discharge for dishonesty or an act constituting a crime or a felony in connection with the claimant's work, if such claimant is convicted or signs a statement admitting the act (Illinois, Indiana, New York, Oregon, and Utah); conviction of a felony or misdemeanor in connection with the work (Maine); discharge for a dishonest or criminal act in connection with the work (Alabama); gross or aggravated misconduct connected with the work (Missouri, South Carolina, and Tennessee); deliberate and willful disregard of standards of behavior showing gross indifference to the employer's interests (Maryland); discharge for dishonesty, intoxication, or willful violation of safety rules (Arkansas); gross, flagrant, willful, or unlawful misconduct (Nebraska); assault, theft or sabotage (Michigan); misconduct that has impaired the rights, property, or reputation of a base-period employer (Louisiana); assault, battery, theft of \$50 or more, commission of an immoral act or destruction of property (Minnesota); intentional, willful, or wanton disregard of the employer's interest (Kansas); and discharge for arson, sabotage, felony, or dishonesty connected with the work (New Hampshire). Additional disqualifications are provided in Kansas and New Hampshire (Table 403, footnote 3).

440 DISQUALIFICATION FOR A REFUSAL OF SUITABLE WORK

Disqualification for a refusal of work is provided in all State laws, with diverse provisions concerning the extent of the disqualification imposed, smaller difference in the factors to be considered in determining whether work is suitable or the worker has good cause for refusing it; and practically identical statements concerning the conditions under which new work may be refused without disqualification. To protect labor standards, the Federal Unemployment Tax Act provides that no State law will be approved, so that employers may credit their State contributions against the Federal tax, unless the State law provides that--

Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

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(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

440.01 Criteria for suitable work.--In addition to the mandatory minimum standards, most State laws list certain criteria by which the suitability of a work offer is to be tested. The usual criteria are the degree of risk to a claimant's health, safety, and morals; the physical fitness and prior training, experience, and earnings; the length of unemployment, and prospects for securing local work in a customary occupation; and the distance of the available work from the claimant's residence.

These criteria are modified in some States to include other stipulations, for example: in California, that any work that meets the criteria is suitable if the wages equal the claimant's weekly benefit amount; in Alabama and West Virginia, that no work is unsuitable because of distance if it is in substantially the same locality as the last regular employment which the claimant left voluntarily without good cause connected with the employment; in Indiana, that work under substantially the same terms and conditions under which the claimant was employed by a base-period employer, which is within the prior training and experience and physical capacity to perform, is suitable work unless a bona fide change in residence makes such work unsuitable because of the distance involved. Massachusetts deems work between the hours of 11 p.m. and 6 a.m. not suitable for women. New Hampshire doesn't consider third shift work suitable if the claimant is the only adult available to care for the children under age 15, or for an ill or infirm dependent elderly person.

Delaware and New York make no reference to the suitability of work offered but provide for disqualification for refusals of work for which a claimant is reasonably fitted. Delaware, New York, and Ohio provide, in addition to the labor standards required by the Federal law, that no refusal to accept employment shall be disqualifying if it is at an unreasonable distance from the claimant's residence or the expense of travel to and from work is substantially greater than that in the former employment, unless provision is made for such expense. Also, Ohio does not consider suitable any work a claimant is not required to accept pursuant to a labor-management agreement.

440.02 Period of disqualification.--Some States disqualify for a specified number of weeks (4 to 11) any claimants who refuse suitable work; others postpone benefits for a variable number of weeks, with the maximum ranging from 5 to 17. Almost half the States disqualify, for the duration of the unemployment or longer, claimants who refuse suitable work. Most of these specify an amount that the claimant must earn, or a period of time the claimant must work to remove the disqualification.

Of the States that reduce potential benefits for refusal of suitable work, the majority provide for reduction by an amount equal to the number of weeks of benefits postponed. In Colorado potential benefits are reduced by 90 percent.

The relationship between availability for work and refusal of suitable work was pointed out in the discussion of availability (sec. 410). The Wisconsin provisions for suitable work recognize this relationship by stating: "If the commission determines that * * * a failure [to accept suitable work] has occurred with good cause, but that the employee is physically unable to work or substantially unavailable for work, he shall be ineligible for the week in which such failure occurred and while such inability or unavailability continues."

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445 LABOR DISPUTES

Unlike the disqualifications for voluntary leaving, discharge for misconduct, and refusal of suitable work, the disqualifications for unemployment caused by a labor dispute do not involve a question of whether the unemployment is incurred through fault on the part of the individual worker. Instead, they mark out an area that is excluded from coverage. This exclusion rests in part on an effort to maintain a neutral position in regard to the dispute and, in part, to avoid potentially costly drains on the unemployment funds.

The principle of "neutrality" is reflected in the type of disqualification imposed in all of the State laws. The disqualification imposed is always a postponement of benefits and in no instance involves reduction or cancellation of benefit rights. Inherently, in almost all States, the period is indefinite and geared to the continuation of the dispute-induced stoppage or to the progress of the dispute.

445.01 Definition of labor dispute.--Except for Alabama and Minnesota, no State defines labor dispute. The laws use different terms; for example, labor dispute, trade dispute, strike, strike and lockout, or strike or other bona fide labor dispute. Some States exclude lockouts, presumably to avoid penalizing workers for the employer's action; several States exclude disputes resulting from the employer's failure to conform to the provisions of a labor contract; and a few States, those caused by the employer's failure to conform to any law of the United States or the State on such matters as wages, hours, working conditions, or collective bargaining, or disputes where the employees are protesting substandard working conditions (Table 405).

445.02 Location of the dispute.--Usually a worker is not disqualified unless the labor dispute is in the establishment in which the worker was last employed. Idaho omits this provision; North Carolina, Oregon, Texas, and Virginia include a dispute at any other premises which the employer operates if the dispute makes it impossible for the employer to conduct work normally in the establishment in which there is no labor dispute. Michigan includes a dispute at any establishment within the United States functionally integrated with the striking establishment or owned by the same employing unit. Ohio includes disputes at any factory, establishment, or other premises located in the United States and owned or operated by the employer.

445.03 Period of disqualification.--In most States the period of disqualification ends whenever the "stoppage of work because of a labor dispute" comes to an end or the stoppage ceases to be caused by the labor dispute. In other States, disqualifications last while the labor dispute is in "active progress," and in Arizona, Connecticut, Idaho, and Ohio, while the workers' unemployment is a result of a labor dispute (Table 405).

A few State laws allow individuals to terminate a disqualification by showing that the labor dispute (or the stoppage of work) is no longer the cause of their unemployment. The Missouri law specifies that bona fide employment of the claimant for at least the major part of each of 2 weeks will terminate the disqualification; the Michigan law provides that if a claimant works in at least 2 consecutive calendar weeks, and earns wages in each week of at least the weekly benefit amount based on employment with the employer involved in the labor dispute, the disqualification will terminate; and the New Hampshire law specifies that the disqualification will terminate 2 weeks after the dispute is ended even though the stoppage of work continues. In contrast, the Arkansas, Colorado, and North Carolina laws extend the disqualification for a reasonable period of time necessary for the establishment to resume normal operations; and Michigan and Virginia extend the period to shutdown and startup operations. Under the Maine, Massachusetts, New Hampshire, and Utah laws, a claimant may receive benefits if, during a stoppage of work resulting from a labor dispute, the claimant

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obtains employment with another employer and earns a specified amount of wages (Table 405). However, base-period wages earned with the employer involved in the dispute cannot be used for benefit payments while the stoppage of work continues.

Only two States provide for a definite period of disqualification. In New York a worker, unemployed because of a strike or lockout in the establishment where such individual was employed, can accumulate effective days after 7 weeks and the waiting period, or earlier if the controversy is terminated earlier. In Rhode Island a worker unemployed because of a strike in the establishment in which such worker was employed is entitled to benefits for unemployment which continues after a 6-week disqualification period and a 1-week waiting period. In addition to the usual labor dispute provision, Michigan, in a few specified cases, disqualifies for 6 weeks in each of which the claimant must either earn remuneration in excess of \$15 or meet the regular eligibility requirements, plus an equal reduction of benefits based on wages earned with the employer involved.

In Indiana termination of employment with the employer involved in the dispute is sufficient showing that the unemployment is not caused by the dispute.

445.04 Exclusion of individual workers.--Alabama, California, Delaware, Kentucky, New York, North Carolina and Wisconsin do not exempt from disqualification those workers who are not taking part in the labor dispute and who have nothing to gain by it. In Minnesota an individual is disqualified for 1 week if the individual is not participating in or directly interested in the labor dispute. In Texas the unemployment must be caused by the claimant's stoppage of work. Utah applies a disqualification only in case of a strike involving a claimant's grade, class, or group of workers if one of the workers in the grade, class, or group fomented or was a party to the strike; if the employer or employer's agent and any of the workers or their agents conspired to foment the strike, no disqualification is applied. Massachusetts provides specifically that benefits will be paid to an otherwise eligible individual from the period of unemployment to the date a strike or lockout commenced, if such individual becomes involuntarily unemployed during negotiations of a collective-bargaining contract. Minnesota provides that an individual is not disqualified if he is dismissed during negotiations prior to a strike, if he is unemployed because of a jurisdictional dispute between two or more unions, or if unemployment is caused by an employer's willful failure to comply with either Federal and State occupational safety and health laws or safety and health provisions in a union agreement. Ohio provides that the labor dispute disqualification will not apply if the claimant is laid off for an indefinite period and not recalled to work prior to the dispute or was separated prior to the dispute for reasons other than the labor dispute, or if he obtains a bona fide job with another employer while the dispute is still in progress. Connecticut provides that an apprentice, unemployed because of a dispute between his employer and journeymen, shall not be held ineligible for benefits if he is available for work. Indiana excludes from disqualification individuals not recalled after the labor dispute has been terminated and sufficient time to resume normal activities has elapsed. The other States provide that individual workers are excluded if they and others of the same grade or class are not participating in the dispute, financing it, or directly interested in it, as indicated in Table 405.

450 DISQUALIFICATION OF SPECIAL GROUPS

Under all State laws, students who are not available for work while attending school, women who are unable to work because of pregnancy, and individuals who quit their jobs because of marital obligations which make them unavailable for work would not qualify for benefits under the regular provisions concerning ability to work and availability for work. Also, under those laws that restrict good cause for voluntary leaving to that attributable to the employer or to the employment, workers who leave work to return to school or who become unemployed because of pregnancy or circumstances

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related to their family obligations are subject to disqualification under the voluntary-quit provision (Table 401). However, most States supplement their general able-and-available and disqualification provisions by the addition of one or more special provisions applicable to students, individuals unemployed because of pregnancy, or separated from work because of family or marital obligations. Most of these special provisions restrict benefits more than the usual disqualification provisions (sec. 430).

450.01 Pregnant women.--About half the States have special provisions for disqualification for unemployment caused by pregnancy (Table 407). In addition, Rhode Island provides by regulation that pregnancy creates a presumption of inability to work from the time of entrance into the sixth month of pregnancy without regard to the reason for termination.

Of the statutory provisions on pregnancy, some hold the women unable to work and unavailable for work and the remainder disqualify her because she left work on account of her condition or because her unemployment is a result of pregnancy. In the restriction of benefit rights there is no distinction between the two types of provisions.

Indiana denies benefits for the duration of unemployment caused by pregnancy, and imposes a disqualification for voluntary leaving if the claimant's separation was caused by pregnancy; Arkansas, Colorado, Minnesota, and West Virginia require employment subsequent to termination of the pregnancy to reestablish benefit rights. Most States disqualify for the duration of the unemployment resulting from pregnancy, but not less than a specified period before and after childbirth. The other States provide a specified period before and after childbirth, but, of these, only Pennsylvania extends the period to the duration of unemployment or longer if the claimant voluntarily left work (Table 407). In Alabama the disqualification lasts for 10 weeks after termination of pregnancy or for the duration of a leave of absence which was set in accordance with the claimant's request or a union contract; and in Tennessee the disqualification lasts for 21 days after the claimant returns to her former employer and offers evidence supported by medical proof that she has returned as soon as she was able. Delaware disqualifies a pregnant woman if she can't work because of pregnancy and requires a doctor's certificate to establish availability after childbirth.

The California law, which has no special pregnancy disqualification, prescribes that a woman who has been disqualified for voluntarily leaving work may receive benefits upon termination of her pregnancy if, upon the advice of her doctor, she had requested a maternity leave and it was denied.

450.02 Individuals with marital obligations.--Of the States with special provisions for unemployment because of marital obligations, all except 3¹ provide for disqualification rather than a determination of unavailability. Generally, the disqualification is applicable only if the individual left work voluntarily.

The situations to which these provisions apply are stated in the law in terms of one or more of the following causes of separation: leaving to marry; to move with spouse or family; because of marital, parental, filial, or domestic obligations; and to perform duties of housewife (Table 406, footnote 2). The disqualification or determination of unavailability usually applies to the duration of the individual's unemployment or longer. However, exceptions are provided in Arkansas, California, Colorado, Idaho, Illinois, Nevada, Pennsylvania, and Utah.

450.03 Students.--Most States exclude from coverage service performed by students for educational institutions (Table 103); New York also excludes part-time work by a day student in elementary or secondary school. In addition, many States have special

¹Idaho, Ill., and Okla.

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provisions limiting the benefit rights of students who have had covered employment. Seven States¹ disqualify for voluntarily leaving work to attend school; in some of these States the disqualification is for the duration of the unemployment; in others, during attendance at school or during the school term. Colorado provides for a disqualification of from 13 to 25 weeks plus an equal reduction in benefits to not less than one week of benefits. In Iowa a student is considered to be engaged in "customary self-employment" and as such is not eligible for benefits; Idaho does not consider a student unemployed while attending school except for students in night school and approved training.

Four States² disqualify claimants during school attendance and Montana and Utah extend the disqualification to vacation periods. In Utah the disqualification is not applicable if the major portion of the individual's base-period wages were earned while attending school. In four States³ students are deemed unavailable for work while attending school and during vacation periods. Indiana and Louisiana make an exception for students regularly employed and available for suitable work. In Ohio a student is eligible for benefits providing the base-period wages were earned while in school and the student is available for work with any base-period employer or for any other suitable employment.

455 DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION TO OBTAIN BENEFITS

All States except Iowa have special disqualifications covering fraudulent misrepresentation to obtain or increase benefits (Table 409). These disqualifications from benefits are administrative penalties. In addition, the State laws contain provisions for (a) the repayment of benefits paid as the result of fraudulent claims or their deduction from potential future benefits, and (b) fines and imprisonment for willfully or intentionally misrepresenting or concealing facts which are material to a determination concerning the individual's entitlement to benefits.

455.01 Recovery provisions.--All State laws make provision for the agencies to recover benefits paid to individuals who later are found not to be entitled to them. A few States provide that, if the overpayment is without fault on the individual's part, the individual is not liable to repay the amount, but it may, at the discretion of the agency, be deducted from future benefits. Some States limit the period within which recovery may be required--1 year in Connecticut and Nevada; 2 years in Florida and North Dakota; 3 years in Idaho, Indiana, Vermont, and Wyoming; and 4 years in New Jersey. In Oregon recovery is limited to the existing benefit year and the 52 weeks immediately following. Eleven States⁴ provide that, in the absence of fraud, misrepresentation, or nondisclosure, the individual shall not be liable for the amount of overpayment received without fault on the individual's part where the recovery thereof would defeat the purpose of the act and be against equity and good conscience. Five other States⁵ provide that recovery may be waived under such conditions.

In many States the recovery of benefits paid as the result of fraud on the part of the recipient is made under the general recovery provision. Twenty-five States⁶ have a provision that applies specifically to benefit payments received as the result of fraudulent misrepresentation. All but a few States provide alternative methods for recovery of benefits fraudulently received; the recipient may be required to repay the amounts in cash or to have them offset against future benefits payable. New York provides that a claimant shall refund all moneys received because of misrepresentation;

¹Ark., Colo., Conn., Kans., Ky., Texas, and W.Va.

²Mont., Neb., N.Dak., Utah.

³Ill., Ind., La., N.C.

⁴Ariz., Ark., Calif., Colo., D.C., Fla., Hawaii, Mass., Nebr., Nev., and Wyo.

⁵La., Maine, N.Dak., S.Dak., and Wash.

⁶Ariz., Ark., Colo., Del., D.C., Fla., Hawaii, Ind., La., Maine, Mich., Minn., Mo., Nebr., Nev., N.H., N.Y., Ohio, Okla., Oreg., Utah, Vt., Wash., Wis., and Wyo.

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and Alabama, for withholding future benefits until the amount due is offset. In Texas, Vermont, and Wisconsin the commission may, by civil action, recover any benefits obtained through misrepresentation.

455.02 Criminal penalties.--Four State laws (California, Minnesota, Tennessee, and Virginia) provide that any fraudulent misrepresentation or nondisclosure to obtain, increase, reduce, or defeat benefit payments is a misdemeanor, punishable according to the State criminal law. Under the Kansas law, anyone making a false statement or failing to disclose a material fact in order to obtain or increase benefits is guilty of theft and punishable under the general criminal statutes. These States have no specific penalties in their unemployment laws with respect to fraud in connection with a claim. They therefore rely on the general provisions of the State criminal code for the penalty to be assessed in the case of fraud. Fraudulent misrepresentation or nondisclosure to obtain or increase benefits is a misdemeanor under the Georgia law, a felony under the Idaho law, and larceny under the Puerto Rico law. The other States include in the law a provision for a fine (maximum \$20 to \$1,000) or imprisonment (maximum 30 days to 1 year), or both (Table 409). In many States the penalty on the employer is greater, in some cases considerably greater, than that applicable to the claimant. Usually the same penalty applies if the employer knowingly makes a false statement or fails to disclose a material fact to avoid becoming or remaining subject to the act or to avoid or reduce contributions. New Jersey imposes a fine of \$250 to \$1,000 if an employer files a fraudulent contribution report, and imposes the same fine if an employer aids or abets an individual in obtaining more benefits than those to which the claimant is entitled. A few States provide no specific penalty for fraudulent misrepresentation or nondisclosure; in these States the general penalty is applicable (Table 408, footnote 4). The most frequent fine on the worker is \$20-\$50 and on the employer, \$20-\$200.

455.03 Disqualification for misrepresentation.--The provisions for disqualification for fraudulent misrepresentation follow no general pattern. In most States which disqualify for fraud, an attempt to defraud is disqualifying, but in Illinois there is no administrative disqualification unless benefits have been received as a result of the fraudulent act. In nine States¹ there is a more severe disqualification when the fraudulent act results in payment of benefits; in California, New Hampshire, Oregon, Pennsylvania, and Virginia, when the claimant is convicted.

In California any claimant convicted of misrepresentation under the penalty provisions is disqualified for 1 year. In Rhode Island, and Wyoming there is no disqualification unless the claimant has been convicted of fraud by a court of competent jurisdiction. On the other hand, in Hawaii, Puerto Rico, and Vermont a claimant is not subject to the administrative disqualification if penal procedures have been undertaken; in Massachusetts, administrative disqualification precludes initiation of penal procedures.

Sixteen States include a statutory limitation on the period within which a disqualification for fraudulent misrepresentation may be imposed (Table 409, footnote 3). The length of the period is usually 2 years and, in six States, the period runs from the date of the offense to the filing of a claim for benefits. In these States the disqualification can be imposed only if the individual files a claim for benefits within 2 years after the date of the fraudulent act. In Connecticut the disqualification may be imposed if a claim is filed within 2 years after the discovery of the offense. In four States the disqualification may be imposed only if the determination of fraud is made within 1 or 2 years after the date of the offense.

¹Idaho, Ky., La., Maine, Md., Mich., Ohio, Utah, and Vt.

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In many States the disqualification is, as would be expected, more severe than the ordinary disqualification provisions. In 11 States the disqualification is for at least a year; in others it may last longer. The provisions are difficult to compare because some disqualifications start with the date of the fraudulent act, while others begin with the discovery of the act, the determination of fraud, the date on which the individual is notified to repay the sum so received, or conviction by a court; some begin with the filing of a first claim, while others are for weeks that would otherwise be compensable. The disqualification provisions are, moreover, complicated by tie-in with recoupment provisions and by retroactive imposition.

As Table 409 shows, the cancellation of wage credits in many States means the denial of benefits for the current benefit year or longer. A disqualification for a year means that wage credits will have expired, in whole or in part, depending on the end of the benefit year and the amount of wage credits accumulated for another benefit year before the fraudulent act, so that future benefits are reduced as if there had been a provision for cancellation. In other States with discretionary provisions or shorter disqualification periods, the same result will occur for some claimants. Altogether, misrepresentation involves cancellation or reduction of benefit rights in 33 States and may involve reduction of benefit rights for individual claimants in 14 more States. The disqualification for fraudulent misrepresentation usually expires after a second benefit year, but in California it may be imposed within 3 years after the determination is mailed or served; in Ohio, within 4 years after a finding of fraud; and in Arkansas and Washington, within 2 years of such finding. In 10 States¹ the agency may deny benefits until the benefits obtained through fraud are repaid. In Virginia the denial is limited to 5 years. In Minnesota, if benefits fraudulently obtained are not repaid within 20 days from the date of notice of finding of fraud, such amounts are deducted from future benefits in the current or any subsequent benefit year. In Colorado, benefits are denied if an individual's court trial for commission of a fraudulent act is prevented by the inability of the court to establish its jurisdiction over the individual. Such ineligibility begins with the discovery of the fraudulent act and continues until such time as the individual makes himself available to the court for trial. In Maryland the time limit for repayment is 5 years following the date of the offense, or 1 year after the year disqualification period, whichever occurs later. After this period an individual may qualify for benefits against which any part of the repayment due may be offset. In Louisiana repayment is limited to the 5-year period following a determination of fraud--a period which may be lengthened under specified circumstances.

460 DISQUALIFYING INCOME

Practically all the State laws include a provision that a claimant is disqualified from benefits for any week during which such claimant is receiving or is seeking benefits under any Federal or other State unemployment insurance law. A few States mention specifically benefits under the Federal Railroad Unemployment Insurance Act. Under most of the laws, no disqualification is imposed if it is finally determined that the claimant is ineligible under the other law. The intent is clear--to prevent duplicate payment of benefits for the same week. It should be noted that such disqualification applies only to the week in which or for which the other payment is received.

Forty-six States have statutory provisions that a claimant is disqualified for any week during which such claimant receives or has received certain other types of remuneration such as wages in lieu of notice, dismissal wages, worker's compensation for temporary partial disability, primary insurance benefits under old-age and survivors insurance, benefits under an employer's pension plan or under a supplemental unemployment benefit plan. In many States if the payment concerned is less than the weekly benefit, the claimant receives the difference; in other States no benefits are payable for a week of such payments regardless of the amount of payment (Table 410). A few States provide for rounding the resultant benefits, like payments for weeks of partial unemployment, to even 50-cent or dollar amounts.

¹Idaho, Ill., Ky., La., Mich., N.H., Oreg., Utah, Va., and Vt.

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460.01 Wages in lieu of notice and dismissal payments.--The most frequent provision for disqualification for receipt of other income is for weeks in which the claimant is receiving wages in lieu of notice (33 States). In 11 of these States the claimant is totally disqualified for such weeks; in 22, if the payment is less than the weekly benefit amount, the claimant receives the difference. Sixteen States have the same provision for receipt of dismissal payments as for receipt of wages in lieu of notice. The State laws use a variety of terms such as dismissal allowances, dismissal payments, dismissal wages, separation allowances, termination allowances, severance payments, or some combination of these terms. In many States all dismissal payments are included as wages for contribution purposes after December 31, 1951, as they are under the FUTA. Other States continue to define wages in accordance with the FUTA prior to the 1950 amendments so as to exclude from wages dismissal payments which the employer is not legally required to make. To the extent that dismissal payments are included in taxable wages for contribution purposes, claimants receiving such payments may be considered not unemployed, or not totally unemployed, for the weeks concerned. Some States have so ruled in general counsel opinions and benefit decisions. Indiana and Minnesota specifically provide for deduction of dismissal payments whether or not legally required. However, under rulings in some States, claimants who received dismissal payments have been held to be unemployed because the payments were not made for the period following their separation from work but, instead, with respect to their prior service.

460.02 Worker's compensation payments.--Nearly half the State laws list worker's compensation under any State or Federal law as disqualifying income. Some disqualify for the week concerned; the others consider worker's compensation deductible income and reduce unemployment benefits payable by the amount of the worker's compensation payments. A few States reduce the unemployment benefit only if the worker's compensation payment is for temporary partial disability, the type of worker's compensation payment that a claimant most likely could receive while certifying ability to work. The Alabama, Colorado, Connecticut, Illinois, and Iowa laws state merely temporary disability. The Georgia law specifies temporary partial or temporary total disability. The Kansas provision specifies temporary total disability or permanent total disability, while the Massachusetts provision is in terms of partial or total disability but specifically excludes weekly payments received for dismemberment. The Florida, Louisiana, and Texas laws are in terms of temporary partial, temporary total, or total permanent disability. The Minnesota law specifies any compensation for loss of wages under a worker's compensation law; and Montana's provision is in terms of compensation for disability under the worker's compensation or occupational disease law of any State. California's, West Virginia's, and Wisconsin's provisions specify temporary total disability.

460.03 Retirement payments.--Many States consider receipt of some type of "benefits under title II of the Social Security Act or similar payments under any act of Congress" as disqualifying. Except in Oregon, these States provide for paying the difference between the weekly benefit and the weekly prorated old-age and survivors insurance payment (Table 410, footnote 9). In a few States a deduction in the weekly benefit amount is made if the individual is entitled to old-age and survivors insurance benefits even though the individual did not actually receive them.

Most States list payments under an employer's pension plan. The provisions usually apply only to retirement plans, but Nebraska and South Dakota also include employers' payments in cases of disability. The laws specify that retirement payments are deductible or disqualifying when received under a pension described in terms such as "sponsored by and participated in" by an employer, "pursuant to an employment contract or agreement," or "in which an employer has paid all or part of the cost."

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In many States the weekly benefit is reduced only if the claimant retired from the service of a base-period employer or if a base-period or chargeable employer contributed to the financing of the plan under which the retirement payment is made. In general, the weekly unemployment benefit is reduced by the amount of the monthly retirement payment, prorated to the weeks covered by the payment; some States treat the prorated retirement payment as wages received in a week of unemployment and apply the formula for payment of partial benefits. In Florida the weekly benefit is reduced by the amount of the retirement payment combined with old-age insurance benefits prorated to the number of weeks covered. In several States, only a portion of the retirement payment is deductible (Table 410, footnote 5). Montana's provision on employer-financed pensions differs from those of other States in that the deduction is made from the wage credits on which benefits are based rather than from the weekly benefit amount. In this State the wage credits earned from an employer by whom the claimant was retired are not used in the computation of benefits due after such retirement, if entitlement under the retirement plan, prorated on a weekly basis, exceeds the average weekly benefit amount paid during the prior fiscal year.

In Wisconsin a claimant is disqualified for weeks with respect to which he receives retirement payments under a group retirement system to which any employing unit has contributed substantially or under a government retirement system, including old-age insurance, if he left employment with the chargeable employer to retire before reaching the compulsory retirement age used by that employer, if the claimant left or lost his employment at the compulsory retirement age, all but a specified portion of the weekly rate of the retirement payment is treated as wages (Table 410, footnote 11).

In Maryland and Washington, maximum benefits in a benefit year are reduced in the same manner as the weekly benefit payment.

460.04 Supplemental unemployment payments.--A supplemental unemployment benefit plan is a system whereby, under a contract, payments are made from an employer-financed trust fund to his workers. The purpose is to provide the worker, while unemployed, with a combined unemployment insurance and supplemental unemployment benefit payment amounting to a specified proportion of his weekly earnings while employed.

There are two major types of such plans: (1) those (of the Ford-General Motors type) under which the worker has no vested interest and is eligible for payments only if he is laid off by the company; and (2) those under which the worker has a vested interest and may collect if he is out of work for other reasons, such as illness or permanent separation.

All States except New Hampshire, New Mexico, Puerto Rico, South Carolina, and South Dakota have taken action on the question of permitting supplementation in regard to plans of the Ford-General Motors type. Of the States that have taken action, all permit supplementation without affecting unemployment insurance payments.

In 47 States permitting supplementation, an interpretive ruling was made either by the attorney general (27 States) or by the employment security agency (10 States); in Maine, supplementation is permitted as a result of a Superior Court decision and, in the remaining 9 States¹² by amendment of the unemployment insurance statutes.

¹² Alaska, Calif., Colo., Ga., Hawaii, Ind., Md., Ohio, and Va.

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Some supplemental unemployment benefit plans of the Ford-General Motors type provide for alternative payments or substitute private payments in a State in which a ruling not permitting supplementation is issued. These payments may be made in amounts equal to three or four times the regular weekly private benefit after two or three weekly payments of State unemployment insurance benefits without supplementation; in lump sums when the layoff ends or the State benefits are exhausted (whichever is earlier); or through alternative payment arrangements to be worked out, depending on the particular supplemental unemployment benefit plan.

460.05 Relationship with other statutory provisions.--The six States¹³ which have no provision for any type of disqualifying income and the much larger number which have only one or two types do not necessarily allow benefits to all claimants in receipt of the types of payments concerned. When they do not pay benefits to such claimants, they rely upon the general able-and-available provisions or the definition of unemployment. Some workers over 65 receiving primary insurance benefits under old-age and survivors insurance are able to work and available for work and some are not. In the States without special provisions that such payments are disqualifying income, individual decisions are made concerning the rights to benefits of claimants of retirement age. Many workers receiving workmen's compensation, other than those receiving weekly allowances for dismemberment, are not able to work in terms of the unemployment insurance law. However, receipt of workmen's compensation for injuries in employment does not automatically disqualify an unemployed worker for unemployment benefits. Many States consider that evidence of injury with loss of employment is relevant only as it serves notice that a condition of ineligibility may exist and that a claimant may not be able to work and may not be available for work.

Table 410 does not include the provisions in several States listing vacation pay as disqualifying income because many other States consider workers receiving vacation pay as not eligible for benefits; several other States hold an individual eligible for benefits if he is on a vacation without pay through no fault of his own. In practically all States, as under the FUTA, vacation pay is considered wages for contribution purposes--in a few States, in the statutory definition of wages; in others, in official explanations, general counsel or attorney general opinions, interpretations, regulations, or other publications of the State agency. Thus a claimant receiving vacation pay equal to his weekly benefit amount would, by definition, not be unemployed and would not be eligible for benefits. Some of the explanations point out that vacation pay is considered wages because the employment relationship is not discontinued, and others emphasize that a claimant on vacation is not available for work. Vacation payments made at the time of severance of the employment relationship, rather than during a regular vacation shutdown, are considered disqualifying income in some States only if such payments are required under contract and are allocated to specified weeks; in other States such payments, made voluntarily or in accordance with a contract, are not considered disqualifying income.

In the States that permit a finding of availability for work during periods of approved training or retraining, some claimants may be eligible for State unemployment benefits and, at the same time, qualify for training payments under one of the Federal training programs established by Congress. Duplicate payments are not permitted under the State or Federal laws. However, the State benefit may be supplemented under the Manpower Development and Training Act if the allowance is greater than the State benefit.

¹³ Ariz., Hawaii, N.Mex., P.R., S.C., and Wash.

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TABLE 400.--ABILITY TO WORK, AVAILABILITY FOR WORK, AND SEEKING WORK REQUIREMENTS

State	Able to work and available for--			Actively seeking work (34 States)	Special provision for illness or disability during unemployment ¹⁷ (11 States)
	Work (32 States)	Suitable work (11 States)	Work in usual occupation or for which reasonably fitted by prior training or experience (9 States)		
(1)	(2)	(3)	(4)	(5)	(6)
Ala.	• • • • •	• • <u>X³⁷</u> • •	<u>X²</u> /	• • • • •	• • • • •
Alaska	• • • • •	<u>X³⁷</u>	• • • • •	• • • • •	• • • • •
Ariz.	X	• • • • •	• • • • •	• • • • •	• • • • •
Ark.	• • • • •	X	• • • • •	X	• • • • •
Calif.	<u>X²</u> /	• • • • •	• • • • •	X	• • • • •
Colo.	• • • • •	X	• • • • •	X	• • • • •
Conn.	<u>X²</u> /	• • • • •	• • • • •	X	• • • • •
Del.	<u>X⁴</u> /	• • • • •	• • • • •	<u>X⁵</u> /	• • • • •
D.C.	<u>X¹⁰</u> /	• • • • •	• • • • •	<u>X⁹</u> /	X
Fla.	X	• • • • •	• • • • •	<u>X⁷</u> /	• • • • •
Ga.	<u>X⁶</u> /	• • • • •	• • • • •	<u>X⁷</u> /	• • • • •
Hawaii	X	• • • • •	• • • • •	(5)	X
Idaho ³ /	• • • • •	X	• • • • •	X	X
Ill. ³ /	<u>X²</u> /	• • • • •	• • • • •	X	• • • • •
Ind. ³ /	X	• • • • •	• • • • •	X	• • • • •
Iowa	X	• • • • •	• • • • •	X	• • • • •
Kans.	• • • • •	• • • • •	X	X	• • • • •
Ky.	• • • • •	X	• • • • •	X	• • • • •
La.	X	• • • • •	• • • • •	• • • • •	• • • • •
Maine	• • • • •	• • • • •	X	X	• • • • •
Md.	X	• • • • •	• • • • •	<u>X⁷</u> /	X ¹ /
Mass.	• • • • •	• • • • •	X	• • • • •	<u>X¹</u> /
Mich.	• • • • •	• • • • •	<u>X²</u> /	<u>X⁵</u> /	• • • • •
Minn. ³ /	X	• • • • •	• • • • •	X	• • • • •
Miss.	X	• • • • •	• • • • •	• • • • •	• • • • •
Mo.	X	• • • • •	• • • • •	X	• • • • •
Mont.	X	• • • • •	• • • • •	X	X
Nebr.	<u>X^{6/8}</u> /	• • • • •	• • • • •	• • • • •	• • • • •
Nev.	X	• • • • •	• • • • •	• • • • •	X
N.H.	• • • • •	X	• • • • •	X	• • • • •
N.J.	<u>X⁶</u> /	• • • • •	• • • • •	X	• • • • •
N.Mex.	X	• • • • •	• • • • •	X	• • • • •
N.Y.	• • • • •	• • • • •	<u>X⁶</u> /	• • • • •	• • • • •
N.C.	<u>X⁶</u> /	• • • • •	• • • • •	<u>X⁵</u> /	• • • • •
N.Dak.	• • • • •	X	• • • • •	X	X
Ohio	• • • • •	<u>X²</u> /	• • • • •	<u>X⁵</u> /	• • • • •
Okla.	X	• • • • •	• • • • •	<u>X⁹</u> /	• • • • •
Oreg.	• • • • •	<u>X³</u> /	• • • • •	X	• • • • •
Pa.	• • • • •	X	• • • • •	• • • • •	• • • • •
P.R.	• • • • •	X	• • • • •	• • • • •	• • • • •

(Table continued on next page)

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TABLE 400.--ABILITY TO WORK, AVAILABILITY FOR WORK, AND SEEKING WORK REQUIREMENTS (CONTINUED)

State	Able to work and available for--			Actively seeking work (34 States)	Special provision for illness or disability during unemployment ^{1/} (11 States)
	Work (32 States)	Suitable work (11 States)	Work in usual occupation or for which reasonably fitted by prior training or experience (9 States)		
(1)	(2)	(3)	(4)	(5)	(6)
R.I.	X	.....	.....^{x2/}	X	.....
S.C.	.....	.....	.....^{x2/}	X	.....
S.Dak.	X	.....	.....	.....	.....
Tenn.	X ^{6/}	.....	.....	.....	X
Tex.	X	.....	.....	.....	.....
Utah	X	.....	.....	.....	.....
Vt.	X	.....	.....	X ^{9/}	X
Va.	X ^{6/}	.....	.....	.....	.....
Wash. ^{3/}	.....	.....	.....^{x6/}	X ^{9/}	.....
W.Va.	.....	.....	X	.....	.....
Wis.	X	.....	.....	X ^{9/}	.....
Wyo.	X	.....	.....	X	.....

^{1/} Claimants are not ineligible if unavailable because of illness or disability occurring after filing claim and registering for work if no offer of work that would have been suitable at time of registration is refused after beginning of such disability; in Mass. provision is applicable for 3 weeks only in a BY.

^{2/} In locality where BPW's were earned or where suitable work may reasonably be expected to be available, Ala. and S.C.; where the commission finds such work available, Mich.; where suitable work is normally performed, Ohio; where opportunities for work are substantially as favorable as those in the locality from which he has moved, Ill.

^{3/} Intrastate claimant not ineligible if unavailability is caused by noncommercial fishing or hunting necessary for survival if suitable work is not offered, Alaska; claimant not ineligible if unavailable 1 or 2 workdays because of death in immediate family or unlawful detention, Calif.; not unavailable if compelling personal circumstance requires absence from normal market area for less than major part of wk., Idaho; claimant in county or city work relief program not unavailable solely for that reason, Oreg. For special provisions in other States noted concerning benefits for claimants unable to work or unavailable for part of a week, see sec. 325.

^{4/} Involuntarily retired individual eligible if registered for work, able to work, and not refusing a suitable job offer, Conn.; if available for work suitable in view of age, physical condition, and other circumstances, Del.

(Footnotes continued on next page)

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(Footnotes for Table 400 Continued)

5/ Employees temporarily laid off for not more than 45 days deemed available for work and actively seeking work if the employer notifies the agency that the layoff is temporary, Del., Mich., and Ohio. Individual customarily employed in seasonal employment must show that he is actively seeking work for which he is qualified by past experience or training during the nonseasonal period, N.C. Claimant must make an active search for work if he voluntarily left work because of marital obligations or approaching marriage, Hawaii.

6/ Claimant deemed available while on involuntary vacation without pay, Nebr. and N.J.; unavailable for 2 weeks or less in CY if unemployment is result of vacation, Ga. and N.C.; eligible only if he is not on a bona fide vacation, Va. Vacation shutdown pursuant to agreement or union contract is not of itself a basis for ineligibility, N.Y. and Wash. Vacation caused by plant shutdown not basis for denial of benefits if individual does not receive vacation pay for the period, Tenn.

7/ And is bona fide in the labor market, Ga. Not applicable to persons unemployed because of plant shutdown of 3 weeks or less if conditions justify, or to person 60 or over who has been furloughed and is subject to recall; blindness or severe handicap do not make a person ineligible if the person was employed by the Maryland Workshop for the Blind prior to his unemployment, Md.

8/ Receipt of nonservice connected total disability pension by veteran at age 65 or more shall not of itself preclude ability to work.

9/ Requirement not mandatory; see text, Okla.; by judicial interpretation, D.C.

10/ Considers ineligible any individual who makes a claim for any week during which he is a prisoner in a penal or correctional institution.

ELIGIBILITY

TABLE 401.--DISQUALIFICATION FOR VOLUNTARY LEAVING, GOOD CAUSE,^{1/}
AND DISQUALIFICATION IMPOSED

State	Good cause restricted ^{2/} (27 States)	Benefits postponed for-- ^{3/4/}			Benefits re- duced ^{4/7/} (17 States)
		Fixed num- ber of weeks ^{5/} (14 States)	Variable number ^{5/} of weeks ^{9/} (18 States)	Duration of unemployment ^{6/} (34 States)	
(1)	(2)	(3)	(4)	(5)	(6)
Ala	X ^{2/}	W+5 ^{4/}	.....	+10 x wba ^{4/}	6-12 x wba ^{4/}
Alaska	.....	W+5 ^{4/}	.....	.....	.....
Ariz.	X ^{2/}	.....	.....	+5 x wba	.....
Ark.	X ^{2/}	.....	.....	+30 days work	.....
Calif. ^{1/}	.....	.....	.....	+5 x wba	.....
Colo.	X ^{2/}	.....	13-25 ^{3/4/}	(^{3/}) (^{8/})	Equal ^{14/}
Conn.	X ^{2/}	W+4	.....	(^{9/})	.....
Del.	X ^{2/}	.....	.....	X	.....
D.C.	.....	.....	W+4-9	.....	Equal
Fla.	X ^{2/}	.....	W+1-12 ^{3/4/}	+10 x wba ^{3/4/}	.....
Ga.	X ^{2/}	.....	WF+4-8 ^{5/14/}	(^{9/})	Equal ^{14/}
Hawaii	.....	.....	W+2-7	.....	.....
Idaho	.....	.....	.....	+8 x wba ^{4/}	.....
Ill.	.....	WF+8 ^{3/5/}	.....	+6 x wba ^{3/}	.....
Ind.	X ^{2/}	.....	.....	+wages equal to wba in each of 10 wks. ^{4/}	By 25 ^{4/}
Iowa	X ^{2/}	.....	.....	+9 x wba ^{4/6/}	.....
Kans.	.....	W+6	.....	(^{9/})	.....
Ky.	.....	.....	.....	X	.....
La.	X ^{2/}	.....	.....	+10 x wba ^{4/}	.....
Maine	X ^{2/}	W+12 ^{3/4/}	.....	+8 x wba ^{3/4/9/}	.....
Md.	.....	.....	W+1-9 ^{3/4/}	+10 x wba ^{3/4/}	.....
Mass. ^{4/}	X	.....	WF+4-8 ^{4/}	.....	Equal ^{14/}
Mich. ^{4/}	X	W+6 ^{11/}	.....	.....	Equal-in current or succeeding BY.
Minn.	X ^{2/}	.....	WW+5-8 ^{5/}	.....	2 x wba
Miss.	(^{2/})	.....	.....	+8 x wba	.....
Mo.	X ^{2/}	.....	.....	+10 x wba ^{4/}	.....
Mont.	X ^{2/}	.....	WW+2-5	.....	Equal
Nebr.	.....	.....	W+2-7 ^{4/}	.....	Equal ^{4/7/}
Nev.	.....	.....	W+1-15 ^{4/9/}	.....	.....
N.H.	X ^{2/}	W+26 ^{3/}	.....	+3 wks. of covered work with earn- ings equal to wba in each ^{3/}	.....
N.J.	X ^{2/}	.....	.....	+4 x wba	.....
N.Mex.	.....	.....	W+1-13	.....	Equal
N.Y. ^{1/}	.....	.....	.....	+3 days work in each of 4 wks. or \$200	.....

(Table continued on next page)

ELIGIBILITY

TABLE 401.--DISQUALIFICATION FOR VOLUNTARY LEAVING, GOOD CAUSE,^{1/}
AND DISQUALIFICATION IMPOSED (CONTINUED)

State	Good cause restricted ^{2/} (27 States)	Benefits postponed for-- ^{3/4/}			Benefits reduced ^{4/7/} (17 States)
		Fixed number of weeks ^{5/} (14 States)	Variable number of weeks ^{5/} (18 States)	Duration of unemployment ^{6/} (34 States)	
(1)	(2)	(3)	(4)	(5)	(6)
N.C. ^{5/}	X	..	WF+4-12 ^{10/}	..	Equal
N.Dak.	..	WF+10 ^{3/}	..	+10 x wba	..
Ohio ^{1/}	..	..	..	+6 wks in covered work ^{4/12/}	..
Okla	X	WF+6	..	..	..
Oreg.	..	W+8 ^{3/4/}	..	+wba in each of 4 weeks ^{3/4/}	..
Pa. ^{1/}	..	..	..	+6 x wba	..
P.R.	..	W+3	..	..	..
R.I. ^{1/}	..	..	..	+4 wks. of work in each of which he earned at least \$20 ⁽⁹⁾	..
S.C.	..	..	WF+1-10	..	Optional equal ^{14/}
S.Dak. ^{5/}	..	..	WW+4-9 ^{4/10/}	..	Equal ^{4/}
Tenn.	X ^{2/}	..	..	+5 x wba in covered work	..
Tex.	X ^{2/}	..	1-25 ^{5/14/}	..	Equal ^{14/}
Utah	..	..	WF+1-5	..	..
Vt.	X ^{2/}	..	..	+ in excess of 6 x wba ^{6/10/}	..
Va.	..	..	..	+30 days' work	..
Wash.	..	W+10 ^{3/}	..	+wba in each of 5 weeks ^{5/}	..
W.Va.	X ^{2/}	W+6 ^{4/}	..	..	Equal ^{10/}
Wis. ^{4/}	X ^{2/}	W+4 ^{10/13/}	..	+4 wks. with 20 hours in each wk.	..
Wyo.	..	..	90% reduction in duration ^{4/14/}	..	90% reduction in bens. ^{4/14/}

^{1/}In States footnoted, see text for definitions of good cause and conditions for applying disqualification.

^{2/}Good cause restricted to that connected with the work, attributable to the ER; in N.H., by regulation. See text for exceptions in States footnoted. In Miss. marital, filial, domestic reasons not considered good cause.

^{3/}Colo., Fla., Ill., Maine, Md., N.H., N.Dak., Oreg., and Wash. counted in 2 columns. In Colo. and Fla., both the term and duration-of-unemployment disqualifications are imposed. In Ill., claimant with wages in 3 or 4 quarters of BP is disqualified

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 401 continued)

for 8 wks. or until bona fide work accepted with wages equal to wba, if earlier; claimant with wages in 1 or 2 quarters is disqualified until 6 x wba in earnings subject to FICA received. In Maine, N.H., N.Dak., and Wash. disqualification is terminated if either condition is satisfied. In Md. either disqualification may be imposed at discretion of agency. In Oreg. disqualification may be satisfied if claimant has in 8 wks. registered for work, been able to and available for work, actively seeking and unable to obtain suitable work.

^{4/} Disqualifications applicable to other than last separation as indicated: preceding separation may be considered if last employment not considered bona fide work, Ala.; when employment or time period subsequent to separation does not satisfy potential disqualification, Alaska, Fla., Idaho, Iowa, La., Md., Mass., Mo., Ohio, and Oreg.; from beginning of BP Colo., Ind. and S.D.; to most recent previous separation if last work was not in usual trade or intermittent, Maine, of short duration, W.Va., part-time Wyo., and not in covered employment, Nev. Reduction or forfeiture of benefits applicable to separations from any BP employer, Ala., Colo., Nebr., and Wyo. In Mich. and Wis. benefits computed separately for each ER to be charged. When an ER's account becomes chargeable, reason for separation from that ER is considered.

^{5/} W means wk. of occurrence, WF, wk. of filing, and WW, waiting wk. except that disqualification begins with: wk. for which claimant first registers for work, Calif.; wk. following filing of claim, Tex. Wks. of disqualification must be: otherwise compensable wks., Minn. and S.Dak.; wks. in which claimant meets able-and-available requirements, Ill. Disqualification may run into next BY which begins within 12 months after end of current yr., N.C.

^{6/} Figures show min. employment or wages required to requalify for benefits. In Iowa benefits not withheld from otherwise eligible claimant during extended benefit period after 12 consec. wks. of unemployment during which time claimant is actively seeking work. In Vt. disqualification limited to 6-12 wks. when insured unemployment rate for 6 wks. exceeds 6%.

^{7/} "Equal" indicates reduction equal to wba multiplied by number of wks. of disqualification or, in Nebr., the number of wks. chargeable to ER involved, if less. "Optional" indicates reduction at discretion of agency.

^{8/} Wba and total benefits in BY reduced by half if separation is under conditions requiring 50% award. See text for further details.

^{9/} Disqualified for duration of unemployment if voluntarily retired and until claimant earns 8 x wba, Kans., Maine, and S.C.; also if retired as result of recognized ER policy, Maine, to receive pension, Ga. Disqualified for W+4 if individual voluntarily left most recent work to enter self-employment, Nev. Voluntary retiree disqualified for the duration of unemployment and until 30 x wba is earned, Conn. Voluntary quit for domestic or family responsibilities, self-employment, or to attend school means disqualification for duration of unemployment and until claimant earns 8 x wba, Kans.

^{10/} If claimant returns to employment before end of disqualification period, remaining wks. are canceled and deduction for such wks. recredited, N.C. If amount potentially chargeable to ER is less than 4 x wba, disqualification may be reduced to number of wks. represented by potentially chargeable amount, S.Dak. Disqualified for 1-6 wks. if health precludes discharge of duties of work left, Vt. Deduction recredited if individual returns to covered employment for 30 days in BY, W.Va. Benefit rights not canceled if claimant left employment because of transfer to work paying less than 2/3 immediately preceding wage rate, Wis.

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 401 continued)

11/ In each of the 6 wks. claimant must either earn at least \$25.01 or otherwise meet all eligibility requirements.

12/ And earned wages equal to 3 x aww or \$360, whichever is less; if separation was not from most recent work and was from concurrent employment, disqualification is for duration of unemployment and until wages earned - the lesser of 1/2 wba or \$60 in covered work.

13/ May receive benefits based on previous employment provided claimant maintained a temporary residence near place of employment and, as a result of a reduction in hours, returned to permanent residence.

14/ Reduction in benefits because of a single act shall not reduce potential benefits to less than 1 wk., Colo., Tex., Wyo.; 2 wks., Ga., Mass., S.C.; 1/2 wba, Nebr.

ELIGIBILITY

TABLE 402.--DISQUALIFICATION FOR DISCHARGE FOR MISCONDUCT^{1/}
(SEE TABLE 403 FOR DISQUALIFICATION FOR GROSS MISCONDUCT)

State	Benefits postponed for ^{2/3/}			Benefits reduced or canceled ^{3/6/} (17 States)	Disqualification for disciplinary suspension (7 States)
	Fixed number of weeks ^{4/} (16 States)	Variable number of weeks ^{4/} (23 States)	Duration of unemployment ^{5/} (20 States)		
(1)	(2)	(3)	(4)	(5)	(6)
Ala. ^{12/}	.....	W+2-6 ^{3/}	.....	Equal	W+1-3
Alaska ^{1/}	W+5 ^{3/4/}	.....	.....	.....	.....
Ariz.	WF+10 ^{4/}	.....	.....	8 x wba	.....
Ark.	WF+8 ^{4/}	.....	.....	.....	.....
Calif.	.....	.....	+5 x wba ^{4/}	.....	.....
Colo.	.....	.....	+qualifying wages ^{3/8/}	.....	.....
Conn.	W+4	.....	.....	.....	.....
Del.	.....	.....	X	.....	.....
D.C.	.....	W+4-9	.....	Equal	.....
Fla. ^{1/}	.....	W+1-12 ^{2/3/}	+10 x wba ^{2/3/}	.....	.....
Ga.	.....	WF+4-10	.....	Equal	.....
Hawaii	.....	W+2-7	.....	.....	.....
Idaho	.....	.....	+8 x wba ^{3/}	.....	.....
Ill.	WF+6 ^{2/4/}	.....	+wba in bona fide work ^{2/}	.....	.....
Ind.	.....	.....	+wages equal to wba in each of 10 wks. ^{3/}	By 25% ^{3/}	.....
Iowa	.....	4-9 ^{3/}	.....	Equal	.....
Kans.	W+6	.....	.....	.....	.....
Ky.	.....	W+6-16	.....	.....	.....
La.	.....	.....	+10 x wba ^{3/}	.....	.....
Maine	W+12 ^{2/}	.....	+8 x wba ^{2/}	.....	.....
Md. ^{1/}	.....	W+1-9 ^{3/}	.....	.....	.....
Mass.	.....	WF+4-8 ^{3/10/}	.....	.....	Equal ^{13/}
Mich.	W+6 ^{4/9/}	.....	.....	Equal-in current or subsequent BY.	Duration
Minn.	.....	WF+5-8 ^{4/}	.....	Equal	.....
Miss.	.....	W+1-12	.....	.....	.....
Mo. ^{1/}	.....	WF+1-8 ^{3/4/}	.....	.....	.....
Mont.	.....	WF+2-9	.....	Equal	.....
Nebr.	.....	W+2-7 ^{3/}	.....	Equal ^{3/}	.....
Nev.	.....	W+1-15 ^{3/4/}	.....	.....	.....
N.H.	.....	.....	+3 wks. work in each of which earned wba	.....	W+1
N.J.	W+5	.....	.....	.....	.....
N.Mex.	.....	W+1-13	.....	Equal	.....

(Table continued on next page)

ELIGIBILITY

TABLE 402.--DISQUALIFICATION FOR DISCHARGE FOR MISCONDUCT^{1/} (CONTINUED)
(SEE TABLE 403 FOR DISQUALIFICATION FOR GROSS MISCONDUCT)

State	Benefits postponed for ^{2/3/}			Benefits reduced or canceled ^{3/6/} (17 States)	Disqualification for disciplinary suspension (7 States)
	Fixed number of weeks ^{4/} (16 States)	Variable number of weeks ^{4/} (23 States)	Duration of unemployment ^{5/} (20 States)		
(1)	(2)	(3)	(4)	(5)	(6)
N.Y.	.....	.....	+3 days work in each of 4 wks. or \$200	.....	.....
N.C.	.....	WF+5-12 ^{3/4/10/}	.....	Equal ^{10/}	.....
N.Dak.	WF+10 ^{2/}	.....	+10 x wba ^{2/}	.....	Duration
Ohio	.....	.....	+6 wks in covered work ^{3/11/}	.....	Duration
Okla.	WF+6 ^{4/}	.....	.....	.....	.....
Oreg.	W+8 ^{2/3/}	.....	+ wages equal to wba in each of 4 wks. ^{2/3/}	.....	.....
Pa. ^{1/}	.....	.....	+6 x wba	.....	.....
P.R. ^{1/}	W+3	.....	.....	.....	.....
R.I.	.....	W+3-10 ^{10/}	.....	.....	.....
S.C.	.....	WF+5-26	.....	.....	.....
S.Dak. ^{1/}	.....	WF+7-24 ^{3/4/10/}	.....	Equal ^{10/}	.....
Tenn.	.....	.....	+5 x wba	.....	.....
Tex.	.....	WF+1-26 ^{4/}	.....	Equal	.....
Utah	.....	W+1-9	.....	.....	.....
Vt.	.....	WF+6-12 ^{4/}	.....	.....	.....
Va.	.....	.....	+30 days' work	.....	.....
Wash. ^{1/}	W+10 ^{2/}	.....	+ wages equal to wba in each of 5 wks. ^{2/}	.....	.....
W.Va.	W+6 ^{3/}	.....	.....	Equal ^{10/}	.....
Wis.	W+3 ^{3/}	.....	(9)	Benefit rights based on any work involved ^{9/} canceled ^{3/}	(?)
Wyo.	.....	.....	+ qualifying wages	All accrued benefits forfeited ^{3/}	.....

^{1/} In States noted, the disqualification for disciplinary suspensions is the same as that for discharge for misconduct.

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 402 continued)

2/ Fla., Ill., Maine, Minn., N.H., N.Dak., Oreg., and Wash. counted in 2 columns. In Fla., both the term and the duration-of-unemployment disqualifications are imposed. In Ill., claimant with wages in 3 or 4 quarters of BP is disqualified for 6 wks. or until accepts bona fide work with wages equal to wba, if earlier; claimant with wages in 1 or 2 quarters is disqualified until 6 x wba is earned subject to FICA. In Maine, N.H., N.Dak., and Wash. disqualification is terminated if either condition is satisfied. In Oreg., disqualification may be satisfied if claimant has in 8 wks. registered for work, been able to and available for work, actively seeking and unable to obtain suitable work.

3/ Disqualification applicable to other than last separation as indicated: preceding separation may be considered if last employment is not considered bona fide work, Ala.; when employment or time period subsequent to the separation does not satisfy a potential disqualification, Alaska, Fla., Idaho, Iowa, La., Md., Mass., Mo., Ohio, and Oreg.; from beginning of BP, Colo., Ind. and S.D.; to most recent previous separation if last work was part-time, Wyo., not in covered employment, Nev. Disqualification applicable to either most recent work or last 30-day employing unit, W.Va. Reduction or forfeiture of benefits applicable to separations from any BP employer, Colo., Nebr., Wyo. In Mich. and Wis. benefits computed separately for each ER to be charged. When an ER's account becomes chargeable, reason for separation from that ER is considered.

4/ W means wk. of discharge or wk. of suspension in col. 6 and WF means wk. of filing except that disqualification period begins with: wk. for which claimant first registers for work, Calif.; wk. following filing of claim, Ariz., Okla., Tex., Vt. Wks. of disqualification must be: otherwise compensable wks., Minn., Mo., S.Dak.; wks. in which claimant is otherwise eligible or earns wages equal to wba, Ark.; wks. in which claimant meets able-and-available requirements, Ill.; wks. in which claimant is otherwise eligible and earns wages of \$25.01, Mich. Disqualification may run into next BY, Mich. and Nev.; into next BY which begins within 12 months after end of current year, N.C.

5/ Figures show min. employment or wages required to requalify for benefits.

6/ "Equal" indicates a reduction equal to the wba multiplied by the number of wks. of disqualification or, in Nebr., by the number of wks. chargeable to ER involved, whichever is less.

7/ Disqualified for each wk. of suspension plus 3 wks. if connected with employment, first 3 wks. of suspension for other good cause, and each wk. when employment is suspended or terminated because a legally required license is suspended or revoked, Wis.

8/ Agency has option of awarding full benefits or 50% of potential benefits. In the case of a 50% award, potential benefits are reduced by half. See sec. 425 for further details.

9/ Claimant may be eligible for benefits based on wage credits earned subsequent to disqualification.

10/ If amount potentially chargeable to ER is less than 7 x wba, disqualification may be reduced to the number of wks. represented by the potentially chargeable amount, S.Dak. Ineligibility terminates upon the return of the claimant to bona fide work, R.I. If claimant returns to employment before end of

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 402 continued)

disqualification period, remaining wks. are canceled and deduction for such wks. is reccredited, N.C. Deduction reccredited if individual returns to covered employment for 30 days in BY, W.Va.

11/ And earned wages equal to 3 x aww or \$360, whichever is less.

12/ An individual discharged for deliberate misconduct connected with the work after repeated warnings is ineligible for the duration of unemployment and until claimant has earned 10 x wba and the total benefit amount reduced by 6-12 wks.

13/ Reduction in benefits because of a single act shall not reduce potential benefits to less than 2 wks.

ELIGIBILITY

TABLE 403.--DISQUALIFICATION FOR DISCHARGE FOR GROSS MISCONDUCT (SEE TABLE 402 FOR MISCONDUCT)

State (1)	Benefits postponed for ^{2/}			Benefits reduced or canceled (15 States) (5)
	Fixed number of weeks ^{2/} (5 States) (2)	Variable num- ber of weeks ^{2/} (3 States) (3)	Duration of unemployment (9 States) (4)	
Ala.	.....	.....	x ^{2/}	Wages earned from ER involved canceled.
Ark.	.....	.....	+10 wks of work in each of which he earn- ed his wba.	.....
Ill.	.....	.....	.....	Wages earned from any ER canceled ^{4/}
Ind.	.....	.....	.....	Wages earned from ER involved canceled ^{4/}
Kans.	.....	.....	+8 x wba ^{3/}	^{3/}
Ky.	.....	.....	x ^{2/}	.....
La.	.....	.....	.....	Wages earned from ER involved can- celed ^{2/}
Maine	.....	.....	+\$400 in wages	.....
Md.	.....	.....	+10 x wba	.....
Mich.	W+12 ^{6/}	.....	.....	Equal - in current or succeeding BY.
Minn.	WF+12 ^{1/}	.....	x ^{1/}	12 x wba ^{1/}
Mo.	.....	WF+1-8 ^{2/5/}	.....	Optional ^{5/}
Mont.	12 months	.....	.....	Equal
Nebr.	.....	.....	.....	All prior wage credits canceled.
N.H.	.....	W+4-26 ^{3/}	.....	All prior wage credits canceled.
N.Y.	12 months ^{2/}	.....	.....	.....
Ohio	.....	.....	.....	Ben. rights based on any work invol- ved canceled ^{2/}
Oreg.	.....	.....	.....	All prior wage credits canceled.
S.C.	.....	WF+5-26	.....	Optional equal.
Tenn.	.....	.....	.....	All prior wage credits canceled.
Utah	W+51 ^{4/}	.....	.....	.....
Vt.	.....	.....	+in excess of 6 x wba ^{7/}	.....
W.Va.	.....	.....	+30 days in ^{2/} covered work	.....

^{1/}In Minn., at discretion of commissioner, disqualification for gross misconduct is for 12 wks. which cannot be removed by subsequent employment, or for the remainder of the BY and cancellation of part or all wage credits from the last ER.

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 403 continued)

2/W means wk. of discharge and WF means wk. of filing claim. Applies to other than most recent separation from bona fide work only if ER files timely notice alleging disqualifying act, Ala. Disqualification applicable to other than last separation, as indicated: from beginning of BP, La. and Ohio if unemployed because of dishonesty in connection with employment; within 1 yr preceding a claim, Mo. No days of unemployment deemed to occur for following 12 months if claimant is convicted or signs statement admitting act which constitutes a felony in connection with employment, N.Y. Reduction or forfeiture of benefits applicable to either most recent work or last 30-day employing unit, W.Va.

3/ If claimant is charged with a felony as a result of misconduct, all wage credits prior to date of the charges are canceled but they are restored if charge is dismissed or individual is acquitted, Kans. If discharged for intoxication or use of drugs which interferes with work, 4-26 wks.; for arson, sabotage, felony, or dishonesty, all prior wage credits canceled, N.H.

4/ Benefit rights held in abeyance pending result of legal proceedings: if gross misconduct constitutes a felony or misdemeanor and is admitted by the individual or has resulted in conviction in a court of competent jurisdiction, Ill. and Ind.; if claimant is in legal custody or free on bail, Utah.

5/ Option taken by the agency to cancel all or part of wages depends on seriousness of misconduct. Only wage credits canceled are those based on work involved in misconduct.

6/ In each of the 12 wks. the claimant must either earn at least \$25.01 or otherwise meet all eligibility requirements. Claimant may be eligible for benefits based on wage credits earned subsequent to disqualification.

7/ Disqualification limited to 6-12 wks. when insured unemployment rate for 6 wks. exceeds 6%.

ELIGIBILITY

TABLE 404.--REFUSAL OF SUITABLE WORK

State (1)	Benefits postponed for-- ^{1/2/}			Benefits reduced ^{2/5/} (13 States) (5)	Alternative earnings requirement (3 States) (6)
	Fixed number of weeks ^{3/} (16 States) (2)	Variable number of weeks ^{3/} (20 States) (3)	Duration of unemployment ^{4/} (19 States) (4)		
Ala.	.....	W+1-10	.....	.....	.....
Alaska	W+5	.....	.....	.....	.....
Ariz.	.....	.....	+8 x wba	.....	.....
Ark.	W+8 ^{3/}	.....	.....	.....	.....
Calif.	.....	W+1-9 ^{3/6/}	.....	.....	.....
Colo.	.....	W+13-25 ^{2/7/}	.....	Equal ^{13/}	.....
Conn.	W+4	.....	.....	.....	.....
Del.	.....	.....	X	.....	.....
D.C.	.....	W+4-9	.....	Equal	.....
Fla.	.....	W+1-5 ^{1/}	+10 x wba ^{1/}	Optional 1-3 x wba ^{13/}	.....
Ga.	.....	WF+4-8 ^{13/}	.....	Equal ^{13/}	.....
Hawaii	.....	W+2-7	.....	.....	.....
Idaho	.....	.....	+8 x wba	.....	.....
Ill.	WF+6 ^{1/3/}	.....	+wba in bona fide work ^{1/}	.....	.....
Ind.	.....	.....	+wages equal to wba in each of 10 wks. ^{2/}	By 25% ^{2/}	.....
Iowa	.....	.....	X ^{2/8/}	.....	.....
Kans.	W+6	.....	.....	.....	.....
Ky.	.....	W+1-16	.....	.....	.....
La.	.....	.....	+10 x wba	.....	.....
Maine	.....	.....	+8 x wba ^{9/}	.....	.....
Md.	.....	W+1-10 ^{1/}	.....	.....	10 x wba ^{1/}
Mass.	W+3	.....	.....	Optional 1-3 x wba	.....
Mich.	W+6 ^{3/}	.....	.....	Equal - in current or succeeding BY ^{8/}	.....
Minn.	W+7	.....	.....	.....	.....
Miss.	.....	W+1-12	.....	.....	.....
Mo.	.....	.....	+10 x wba ^{2/}	.....	.....
Mont.	.....	W+2-5	.....	.....	.....
Nebr.	.....	W+2-7	.....	.....	.....
Nev.	.....	W+1-15 ^{3/}	.....	.....	.....
N.H.	W+3	.....	.....	.....	.....
N.J.	W+3	.....	.....	.....	.....
N.Mex.	.....	W+1-13	.....	Equal	.....
N.Y.	.....	.....	+3 days' work in each of 4 wks. or \$200.	.....	.....
N.C.	.....	WF+4-12 ^{3/9/}	.....	Equal ^{9/}	.....

(Table continued on next page)

ELIGIBILITY

TABLE 404.--REFUSAL OF SUITABLE WORK (CONTINUED)

State (1)	Benefits postponed for-- ^{1/2/}			Benefits reduced ^{2/5/} (13 States) (5)	Alternative earnings requirement (3 States) (6)
	Fixed number of weeks ^{3/} (16 States) (2)	Variable number of weeks ^{3/} (20 States) (3)	Duration of unemployment ^{4/} (19 States) (4)		
N.Dak. Ohio	WF+10 ^{1/} .....	..... .....	..... +6 wks. in covered work ^{12/}	..... .....	10 x wba ^{1/}
Okla. Oreg.	W+6 W+8 ^{1/}	..... .....	..... .....	..... .....	..... 4 wks. of work in each of which he earned his wba.
Pa. P.R. R.I. S.C.	..... W+3 W+5 ^{9/} W+4	..... ..... ..... .....	X (6)	..... ..... ..... Optional equal ^{13/}	..... ..... ..... .....
S.Dak. Tenn.	..... .....	1-9 ^{2/3/} .....	..... +5 x wba in covered work	Equal ^{2/} .....	..... .....
Tex. Utah Vt.	..... ..... .....	W+1-13 ^{2/} W+1-5	..... ..... +in excess of 6 x wba ^{10/}	Equal ^{2/13/} .....	..... ..... .....
Va. Wash.	..... .....	..... .....	+30 days' work Earnings equal to wba in each of 5 wks.	..... .....	..... .....
W.Va. Wis.	..... .....	W+4 ^{11/} .....	..... Earnings equal to wba in each of 4 wks. ^{9/}	..... .....	..... .....
Wyo.	.....	90% reduction in potential duration ^{13/}	.....	90% reduction in potential benefits ^{13/}	.....

^{1/} Fla., Ill., Md., N.Dak., and Oreg. counted in 2 columns. In Fla. both the term and the duration-of-unemployment disqualifications are imposed. In Ill. claimant disqualified for 6 wks. or until bona fide work accepted with wages equal to the wba, if earlier. In Md. either disqualification may be imposed at discretion of agency. In N.Dak. disqualification is terminated after 10 wks. following the wk. in which a claim was filed. In Oreg. disqualification may be satisfied if claimant has in 8 wks. registered for work, been able to and available for work, actively seeking and unable to obtain suitable work.

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 404 continued)

2/ Disqualification is applicable to refusals during other than current period of unemployment as indicated: from beginning of BP, Colo., Iowa, and S.Dak.: within 1 yr., Mo.; within current BY, Tex.

3/ W means wk. of refusal of suitable work and WF means wk. of filing. Wks. of disqualification must be: otherwise compensable wks., S.Dak.; wks. in which claimant is otherwise eligible or earns wages equal to wba, Ark.; wks. in which claimant earns at least \$25.01 or otherwise meets eligibility requirements, Mich.; wks. in which claimant meets reporting and registration requirements, Calif., and able and available requirements, Ill. Disqualification may run into next BY, Nev.; into next BY which begins within 12 months after end of current yr., N.C.

4/ Figures show min. employment or wages required to requalify for benefits.

5/ "Equal" indicates a reduction equal to the wba multiplied by the number of wks. of disqualification. "Optional" indicates reduction at discretion of agency.

6/ Agency may add 1-8 wks. more for successive disqualifications, Calif. Claimant may be disqualified for repeated refusals until 8 x wba is earned, S.C.

7/ See text (sec. 425) for details of "no-award" determination.

8/ Claimant may be eligible for benefits based on wage credits earned subsequent to refusal.

9/ If claimant has refused work for a necessitous and compelling reason, disqualification terminates when such claimant is again able and available for work, Maine. If claimant returns to employment before end of disqualification period, remaining wks. are canceled and deduction for such wks. is recredited, N.C. Disqualification terminates upon return to bona fide employment, R.I. Not disqualified if accepts work which claimant could have refused with good cause and then terminates with good cause within 10 wks. after starting work, Wis.

10/ Disqualification limited to 6-12 wks. when insured unemployment rate for 6 wks. exceeds 6%.

11/ Plus such additional wks. as offer remains open.

12/ And earned wages equal to 3 x aww or \$360, whichever is less.

13/ Reduction in benefits because of a single act does not reduce potential benefits to less than 1 wk., Colo., Tex., Wyo., 2 wks., Ga., and S.C.

TABLE 405.--DISQUALIFICATION FOR UNEMPLOYMENT CAUSED BY LABOR DISPUTE

State	Duration of disqualification			Disputes excluded if caused by--			Individuals are excluded if neither they nor any of the same grade or class are--		
	During stoppage of work due to dispute (29 States)	While dispute in active progress (12 States)	Other (11 States)	Employer's failure to conform to--		Lock-out (16 States)	Participating in dispute (43 States)	Financing dispute (30 States)	Directly interested in dispute (43 States)
				Contract (4 States)	Labor law (4 States)				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Ala.	. . . .	X	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Alaska	X	. . . .	. . . .	X	X	. . . .	X	. . . .	X
Ariz.	. . . .	. . . .	X ^{1/}	X	X	. . . .	X	X	X
Ark.	. . . .	. . . .	X ^{2/}	. . . .	. . . .	X	X	. . . .	X
Calif.	. . . .	X	. . . .	. . . .	. . . .	X ^{3/}	. . . .	. . . .	. . . .
Colo.	. . . .	. . . .	X ^{2/}	. . . .	. . . .	X ^{10/}	X	X	X
Conn.	. . . .	. . . .	X ^{1/}	. . . .	. . . .	X	X	X	X
Del.	X	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
D.C.	. . . .	X	. . . .	. . . .	. . . .	. . . .	X	. . . .	X
Fla.	. . . .	X	. . . .	. . . .	. . . .	. . . .	X	X	X
Ga.	X ^{11/}	. . . .	. . . .	. . . .	. . . .	X	X	X	X
Hawaii	X	. . . .	. . . .	. . . .	. . . .	. . . .	X	. . . .	X
Idaho	. . . .	. . . .	X ^{1/}	. . . .	. . . .	. . . .	X	X ^{4/}	X
Ill.	X	. . . .	. . . .	. . . .	. . . .	. . . .	X	X	X
Ind.	X ^{2/9/}	. . . .	. . . .	. . . .	. . . .	. . . .	X	X	X
Iowa	X	. . . .	. . . .	. . . .	. . . .	. . . .	X	X	X
Kans.	X	. . . .	. . . .	. . . .	. . . .	. . . .	X ^{7/}	X	X ^{7/}
Ky.	. . . .	X	. . . .	. . . .	. . . .	X	. . . .	. . . .	X ^{4/}
La.	. . . .	X	. . . .	. . . .	. . . .	. . . .	X ^{4/}	. . . .	X ^{4/}
Maine	X ^{5/}	. . . .	. . . .	. . . .	. . . .	. . . .	X	X	X
Md.	X	. . . .	. . . .	. . . .	. . . .	X	X	X	X
Mass.	X ^{5/ 11/}	. . . .	. . . .	. . . .	. . . .	. . . .	X	X	X
Mich.	. . . .	. . . .	X ^{2/}	. . . .	. . . .	X ^{10/}	X ^{4/}	X ^{4/}	X ^{4/}
Minn.	. . . .	X	. . . .	. . . .	. . . .	X	X ^{12/}	. . . .	X ^{12/}
Miss.	X	. . . .	. . . .	. . . .	. . . .	X	X	. . . .	X

(Table continued on next page)

ELIGIBILITY

TABLE 405.--DISQUALIFICATION FOR UNEMPLOYMENT CAUSED BY LABOR DISPUTE (CONTINUED)

State (1)	Duration of disqualification			Disputes excluded if caused by--		Individuals are excluded if neither they nor any of the same grade or class are--			
	During stoppage of work due to dispute (29 States) (2)	While dispute in active progress (12 States) (3)	Other (11 States) (4)	Employer's failure to conform to--		Lock-out (16 States) (7)	Participating in dispute (43 States) (8)	Financing dispute (30 States) (9)	Directly interested in dispute (43 States) (10)
				Contract (4 States) (5)	Labor law (4 States) (6)				
Mo.	x ²/	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
Mont.	X	. . . . .	. . . .	. . . . .	X	. . . . .	X	X	X
Nebr.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
Nev.	. . . . .	X	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
N.H.	x ² /5/	. . . . .	. . . .	X	. . . . .	X	X	X	X
N.J.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
N.Mex.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	. . . . .	X
N.Y.	. . . . .	. . . . .	x ⁶/	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
N.C.	. . . . .	. . . . .	x ²/	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
N.Dak.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	. . . . .	X
Ohio	. . . . .	. . . . .	x ¹ /10/	. . . . .	. . . . .	X	. . . . .	. . . . .	. . . . .
Okla.	X	. . . . .	. . . .	. . . . .	. . . . .	X	X	. . . . .	X
Oreg.	. . . . .	X	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
Pa.	X	. . . . .	. . . .	. . . . .	. . . . .	X	X	. . . . .	X
P.R.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	. . . . .	X
R.I.	. . . . .	. . . . .	x ⁶/	. . . . .	. . . . .	. . . . .	x ⁴ /	x ⁴ /	x ⁴ /
S.C.	. . . . .	X	. . . .	. . . . .	. . . . .	. . . . .	X	x ⁴ /	X
S.Dak.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
Tenn.	. . . . .	X	. . . .	. . . . .	. . . . .	. . . . .	X	. . . . .	. . . . .
Tex.	x ²/	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	x ² /	x ² /	x ² /
Utah	x ² /10/	. . . . .	. . . .	. . . . .	X	x ³/	. . . . .	x ⁴ /	(2) x ⁴ /
Vt.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	x ⁴/	. . . . .	. . . . .
Va.	. . . . .	. . . . .	x ²/	. . . . .	. . . . .	. . . . .	X	X	X
Wash.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X
W.Va.	x ¹¹/	. . . . .	. . . .	x ⁸/	. . . . .	X	X	X	X
Wis.	. . . . .	X	. . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	. . . . .
Wyo.	X	. . . . .	. . . .	. . . . .	. . . . .	. . . . .	X	X	X

(Footnotes on next page)

ELIGIBILITY

(Footnotes for Table 405)

1/ So long as unemployment is caused by existence of labor dispute.

2/ See text for details.

3/ By judicial construction of statutory language.

4/ Applies only to individual, not to others of same grade or class.

5/ Disqualification is not applicable if claimant subsequently obtains covered employment and: earns 8 x wba or has been employed 5 full wks., Maine; earns at least \$900, Mass.; works at least 5 consec. wks. in each of which claimant earned 120% of wba, N.H.; earns \$700 with at least \$20 in each of 19 different calendar wks., Utah. However, BPW earned from ER involved in the labor dispute cannot be used to pay benefits during such labor dispute, Mass. and Utah.

6/ Fixed period: 7 consec. wks. and the waiting period or until termination of dispute, N.Y.; 6 wks. and waiting period, R.I. See Table 303 for waiting period requirements.

7/ So long as unemployment is caused by claimant's stoppage of work which exists because of labor dispute. Failure or refusal to cross picket line or to accept and perform available and customary work in the establishment constitutes participation and interest.

8/ Disqualification is not applicable if employees are required to accept wages, hours, or other conditions substantially less favorable than those prevailing in the locality or are denied the right of collective bargaining.

9/ Disqualification not applicable to any claimant who failed to apply for or accept recall to work with an ER during a labor dispute work stoppage if claimant's last separation from ER occurred prior to work stoppage and was permanent.

10/ Applicable only to establishments functionally integrated with the establishments where the lockout occurs, Mich. Employee not ineligible: unless the lockout results from demands of employees as distinguished from an ER effort to deprive the employees of some advantage they already possess, Colo.; if individual was laid off and not recalled prior to the dispute, if separated prior to the dispute, if obtained bona fide job with another ER while dispute was in progress, Ohio; if the ER was involved in fomenting the strike, Utah.

11/ Disqualification ceases: when operations have been resumed but individual has not been reemployed, Ga.; within 1 wk. following termination of dispute if individual is not recalled to work, Mass. If the stoppage of work continues longer than 4 wks. after the termination of the labor dispute, there is a rebuttable presumption that the stoppage is not due to the labor dispute and the burden is on the ER to show otherwise, W.Va.

12/ Disqualification limited to 1 wk. for individuals not participating in nor directly interested in dispute.

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TABLE 406.--AVAILABILITY AND DISQUALIFICATION PROVISIONS FOR MARITAL OBLIGATIONS - 15 STATES

State	Disqualification if voluntarily left work to			Deemed unavailable if left work to			Benefits denied until	
	Marry (10 States)	Move with spouse (6 States)	Perform marital, domestic, or filial obligations (11 States)	Marry (2 States)	Move with spouse (1 State)	Perform marital, domestic or filial obligations (1 State)	Subsequently employed in bona fide work (4 States)	Had employment or earnings for time or amount specified (11 States)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Calif. ^{1/}	X	...	X	...	...	...	X	...
Colo.	X	...	X	...	...	...	...	(2)
Idaho ^{1/}	X	X	X	...	...	...	...	8 x wba ^{3/}
Ill.	...	...	...	X	X	X	...	(2)
Kans. ^{6/}	...	...	X	...	...	...	...	8 x wba
Ky.	X	...	...	...	...	...	X	...
Miss.	...	...	X	...	...	...	...	8 x wba
Nev. ^{1/}	X	X	X	...	...	...	X	...
N.Y.	X	X	...	...	...	...	...	\$200 ^{4/}
Ohio	...	...	X	...	...	...	...	\$60 ^{4/}
Okla.	...	...	...	X	...	...	X	...
Oreg.	X	X	X	...	...	...	...	(5)
Pa. ^{1/}	X	X	X	...	...	...	...	6 x wba
Utah	X	X	X	...	...	...	...	6 x wba
W.Va.	X	...	X	...	...	...	...	30 days ^{3/}

^{1/} Not applicable if sole or major support of family at time of leaving and filing a claim, Calif. and Nev.; if claimant becomes main support of self and family, Idaho; if during a substantial part of the preceding 6 months prior to leaving or at time of filing for benefits was sole or major support of family and such work is not within a reasonable commuting distance, Pa.

^{2/} 13-26 wks. for leaving to marry, until worked 13 wks. in Colo. or in covered work outside Colo. if leaving for marital or domestic obligations, Colo.; if left work because of domestic circumstance, until such circumstances cease to exist. If left work to marry, duration of unemployment or until claimant becomes the sole support of self or family. If left work to move with member of family: (1) until circumstances which caused move cease to exist; (2) becomes sole support; (3) earns wages in covered work equal to 8 x wba; (4) until separated from such member of family; or (5) until returned to locality left, Ill.

^{3/} Must be in insured work, Minn. and W.Va.; bona fide work, Idaho.

^{4/} Or until employed on not less than 3 days in each of 4 wks., N.Y.; or earns one-half aww, if less, Ohio.

^{5/} Wages equal to wba in 1 wk. subsequent to wk. of disqualifying act.

^{6/} By judicial interpretation, disqualification applicable only if claimant intended to withdraw from labor market (*Shelton v. Admr.*).

ELIGIBILITY

TABLE 407.--AVAILABILITY AND DISQUALIFICATION PROVISIONS
FOR PREGNANCY, 24 STATES*

State	Claimant		Period of suspension for				Ineligible for any week of unemploy- ment due to pregnancy (4 States)
			Voluntary leaving		Layoff		
	Disquali- fied (16 States)	Deemed unavail- ble (7 States)	Period before birth (22 States)	Period after birth (21 States)	Period before birth** (20 States)	Period after birth** (19 States)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ala.	. . . .	(1)	. . . .	. . . .	. . . .	. . . .	. . . .
Ark.	X	. . . .	Date of separa- tion.	30 days paid work ^{1/} .	Same		. . . .
Colo.	X	. . . .	Anytime.	13 wks. work ^{2/3/} .	30 days.	13 wks. work ^{2/3/}.	. . . .
Del.	X	. . . .	(5)	(5)	(5)	(5)	(5)
D.C.	X	. . . .	6 wks.	6 wks.	Same		. . . .
Idaho	X	. . . .	Anytime.	Earns 8 x wba ^{1/} .	12 wks.	Earns 8 x wba ^{1/}.	. . . .
Ill. ^{7/}	. . . .	X	13 wks. ^{6/}	. . . .	8 wks.	. . . .	. . . .
Ind.	. . . .	X	Anytime ^{6/}	Earns 6 x wba ^{6/}.	. . . .	. . . .	. . . .
Kans.	. . . .	X	90 days.	30 days.	Same		. . . .
La.	X	. . . .	12 wks. ^{1/}	6 wks.	Same		. . . .
Md.	X	. . . .	Anytime physically unable to work				
Minn.	X	. . . .	Date of separa- tion. ^{6/}	6 wks. work. ^{6/}	. . . .	. . . .	. . . .
Mo.	X	. . . .	3 months. ^{5/}	4 wks. ^{5/}	Same		. . . .
Mont.	X	. . . .	2 months. ^{5/}	2 months.	Same		. . . .
Nev.	X	. . . .	Anytime.	Until proof of ability to work.	Same		X
N.J.	. . . .	X	4 wks.	4 wks.	Same		. . . .
Ohio	X	. . . .	Date of separa- tion.	Medical evidence of abil- ity to work ^{4/}	Same		. . . .
Oreg.	. . . .	X ^{9/}	. . . .	. . . .	. . . .		. . . .
R.I. ^{7/}	. . . .	. . . .	4 months.	6 wks.	Same		. . . .
Tenn.	X	Date of separa- tion.	21 days after able to work.	Same	
Tex. ^{8/}	X	3 months.	6 wks.	Same	

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ELIGIBILITY

TABLE 407.--AVAILABILITY AND DISQUALIFICATION PROVISIONS
FOR PREGNANCY, 24 STATES* (CONTINUED)

State			Period of suspension for				Ineligible for any week of unemploy- ment due to pregnancy (4 States)
			Voluntary leaving		Layoff		
	Disquali- fied (16 States)	Deemed unavail- ble (7 States)	Period before birth (22 States)	Period after birth (21 States)	Period before birth** (20 States)	Period after birth** (19 States)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Utah	X	. . . .	12 wks.	6 wks.	Same		X
Wash.	X	. . . .	Anytime.	(⁹)	(⁹)	(⁹)	. . . . .
W.Va.	X	. . . .	Anytime.	30 days' work ^{6/}	Anytime ^{6/}	30 days' work ^{6/}	. . . . .

*Pregnancy disqualification provision declared to be contrary to the equal protection clause of the 14th Amendment of the Constitution by opinion of the Attorney General, Okla. and Pa.

**"Same" in columns 6 and 7 indicates that period during which benefits are suspended is the same for layoffs as for voluntary quit.

^{1/} If leave of absence extends beyond tenth wk., claimant is eligible only if she has given 3 wks. notice of desire to return to work and has not refused reinstatement to suitable work, Ala.; disqualification not applicable if claimant applies for reinstatement after leave of absence and is not reinstated, Ark.; claimant may requalify within 6 wks. after childbirth if she has become main support of self or immediate family, Idaho; claimant who is required to leave employment on account of pregnancy not disqualified because of such leaving, La.

^{2/} If claimant is sole support of child or invalid husband, is eligible for full award 30 days subsequent to termination of pregnancy, Colo.

^{3/} In order to meet a 13-wk. requirement wks. worked outside Colo. must be in covered employment but those worked in Colo. need not, Colo.

^{4/} And work with former ER no longer available. If claimant has moved so that return with former ER is unreasonable because of distance, until she has earned the lesser of 1/2 her aww or \$60.

^{5/} Disqualification not applicable for period shown if claimant can present evidence of ability to work, Mont.; disqualification applicable for any wk. claimant is unable or unavailable for work because of pregnancy--doctor's certificate required to establish availability after childbirth, Del.

^{6/} Claimant subject to voluntary quit disqualification only if she fails to apply for or accept leave of absence under plan provided by separating ER, Ind.; only if she fails to take advantage of maternity rights provided by law, Minn. If laid off because of pregnancy and medical evidence of ability to work submitted, not more than 6 wks. prior to childbirth or 6 wks. after; if claimant voluntarily left and produces medical evidence of ability to work, not more than 6 wks. after childbirth, W.Va.

(Footnotes continued on next page)

ELIGIBILITY

(Footnotes for Table 407 continued)

^{2/} Rebuttable presumption of inability to work during periods specified; in R.I. by regulation.

^{8/} No provision in law or regulation. However, policy of agency has been upheld by the U.S. Court of Appeal, 5th Circuit (Schattman v. Texas Employment Commission).

^{9/} Disqualified for benefits for any period before or after birth during which the woman is precluded from working in her particular category of employment because of a Federal or State statute or administrative rule or regulation, Wash.; presumed unable to work if unemployed because of a disability, including pregnancy, until Administrator determines claimant able to work, Oreg.

ELIGIBILITY

TABLE 408.--PENALTIES FOR FRAUDULENT MISREPRESENTATION: FINE OR IMPRISONMENT OR BOTH IN AMOUNTS AND PERIODS SPECIFIED

state ^{1/}	To obtain or increase benefits		To prevent or reduce benefits	
	Fine ^{2/}	Maximum imprisonment ^{3/} (days unless otherwise specified)	Fine ^{2/}	Maximum imprisonment ^{3/} (days unless otherwise specified)
(1)	(2)	(3)	(4)	(5)
Ala.	\$25-\$250	3 mos.	\$50-\$250 ^{4/}	3 mos. ^{4/}
Alaska	200	60	200	60
Ariz.	25-200	60	25-200	60
Ark.	20-50	30	20-200	60
Calif.	(5)	(5)	(5)	(5)
Colo.	25-1,000	6 mos.	25-1,000	6 mos.
Conn.	200	6 mos.	200	6 mos.
Del.	20-50	60	20-200	60
D.C.	100	60	1,000	6 mos.
Fla.	50-100	30	50-100	60
Ga.	(5)	(5)	20-200	60
Hawaii	20-200	30	20-200	60
Idaho	(6)	(6)	20-200	60
Ill.	5-200	6 mos.	5-200	6 mos.
Ind.	20-50	6 mos.	20-50	6 mos.
Iowa ^{1/}	20-50	30	20-200	60
Kans.	(8)	(8)	20-200	60
Ky.	10-50	30	10-50	30
La.	50-1,000	30-90	50-1,000	30-90
Maine	20-50	30	20-200	60
Md.	50-500	90	50-500	90
Mass.	100-1,000	6 mos.	100-500	90
Mich.	100	90	100	90
Minn.	(5)	(5)	(5)	(5)
Miss.	20-50	30	20-200	60
Mo.	50-1,000	6 mos.	50-1,000	6 mos.
Mont.	50-500	3-30	50-500	3-30
Nebr.	20-50	30	20-200	60
Nev.	50-500	6 mos.	50-500	6 mos.
N.H.	20-200	1 yr.	25-300	1 yr.
N.J.	20	. . .	50	. . .
N.Mex.	100	30	100	30
N.Y.	500	1 yr.	500	1 yr.
N.C. ^{1/}	20-50	30	20-50	30
N.Dak.	100	90	20-100	90
Ohio	500	6 mos.	500 ^{4/}	. . .
Okla.	20-50	30	20-200	60
Oreg.	100-500	90	100-500	90
Pa. ^{1/}	30-200	30	50-500	30
P.R. ^{1/}	(7)	(7)	1,000	1 yr.
R.I.	20-50	30	20-50 ^{4/}	30 ^{4/}
S.C. ^{1/}	20-100	30	20-100	30

(Table continued on next page)

ELIGIBILITY

TABLE 408.—PENALTIES FOR FRAUDULENT MISREPRESENTATION: FINE OR IMPRISONMENT OR BOTH IN AMOUNTS AND PERIODS SPECIFIED (CONTINUED)

State ^{1/}	To obtain or increase benefits		To prevent or reduce benefits	
	Fine ^{2/}	Maximum imprisonment ^{3/} (days unless otherwise specified)	Fine ^{2/}	Maximum imprisonment ^{3/} (days unless otherwise specified)
(1)	(2)	(3)	(4)	(5)
S.Dak.	20-200	(3)	20-200	60
Tenn.	(5)	(5)	(5)	(5)
Tex.	100-500	30-1 yr.	20-200	60
Utah	50-250	60	50-250	60
Vt.	50	30	50 ^{4/}	30 ^{4/}
Va.	(5)	(5)	(5)	(5)
Wash. ^{1/}	20-250	90	20-250	90
W.Va.	20-50	30	20-200 ^{4/}	30 ^{4/}
Wis.	25-100	30	25-100	30
Wyo.	50	30	200	60

^{1/} In States footnoted, law does not require both fine and imprisonment, except Iowa which may impose both fine and imprisonment for fraudulent misrepresentation to prevent or reduce benefits; Pa. to obtain or increase benefits; and P.R. to obtain or increase benefits, and to prevent or reduce benefits.

^{2/} Where only 1 figure is given, no minimum penalty is indicated; law says "not more than" amounts specified.

^{3/} S.Dak. specifies a minimum imprisonment of 30 days.

^{4/} General penalty for violation of any provisions of law; no specific penalty for misrepresentation to prevent or reduce benefits and, in Vt., to obtain or increase benefits. In Ohio, penalty for each subsequent offense, \$25-\$1,000.

^{5/} Misdemeanor.

^{6/} Felony.

^{7/} Penalty prescribed in Penal Code for larceny of amount involved.

^{8/} Theft of less than \$50 is a misdemeanor, and theft of \$50 or more is a felony.

ELIGIBILITY

TABLE 409.--DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION
TO OBTAIN BENEFITS, 51 STATES

State	Duration of disqualification ^{1/}	Benefits reduced or canceled
(1)	(2)	(3)
Ala.	.....	4 x wba--to max. benefit amount payable in BY ^{2/}
Alaska	26 ^{1/3/}	(⁴)
Ariz.	13-52 wks ^{1/3/5/}	(⁴)
Ark.	W+13 wks + 2 wks for each wk of fraud ^{1/}	50% of remaining entitlement
Calif.	1-10; if convicted, 52 wks ^{1/3/?/}	(⁴)
Colo.	(⁸)	(⁸)
Conn.	2-20 wks for which otherwise eligible ^{1/3/}	Mandatory equal reduction
Del.	W+51	x ^{9/}
D.C.	All or part of remainder of BY and for 1 yr commencing with the end of such BY ^{2/}	x ^{9/}
Fla.	1-52 wks ^{1/}	(⁴)
Ga.	Remainder of current quarter and next 4 quarters ^{3/}	Mandatory equal reduction ^{3/}
Hawaii	1-52 wks ^{1/3/}	(⁴)
Idaho	W+52 ^{1/} ; amounts fraudulently received must be repaid or deducted from future benefits.	x ^{9/}
Ill.	If fraudulent benefits received, until such amounts and penalty are repaid or withheld ^{10/}	(⁴)
Ind.	Up to current BY + ^{6/}	All wage credits prior to act canceled
Kans.	1 yr after act committed or after 4th day following last wk for which benefits were paid, whichever is later	x ^{9/}
Ky.	W+up to 52 wks; if fraudulent benefits received, until such amounts are repaid ^{1/3/}	(⁴)
La.	W+52; if fraudulent benefits received, until such amounts are repaid	x ^{9/}
Maine	6 months-1 yr ^{1/}	x ^{9/}
Md.	1 yr. and until benefits repaid ^{1/3/}	.....
Mass.	1-10 wks for which otherwise eligible ^{1/2/}	.....
Mich.	Current BY and until such amounts are repaid or withheld ^{1/11/}	All uncharged credit wks with respect to current BY canceled ^{11/}
Minn.	W+up to end of current or succeeding BY	(⁴)
Miss.	W+up to 52 wks ^{1/}	X
Mo.	Up to current BY + ^{6/}	All or part of wage credits prior to act canceled
Mont.	10-52 wks and until benefits repaid ^{1/}	.....
Nebr.	Up to current BY + ^{6/}	All or part of wage credits prior to act canceled

(Table continued on next page)

ELIGIBILITY

TABLE 409.--DISQUALIFICATION FOR FRAUDULENT MISREPRESENTATION TO OBTAIN BENEFITS, 51 STATES (CONTINUED)

State (1)	Duration of disqualification ^{1/} (2)	Benefits reduced or canceled (3)
Nev.	W+1-52	X ^{9/}
N.H.	4-52 wks; if convicted 1 yr. after conviction; and until benefits repaid or withheld ^{1/2/}	Mandatory equal reduction
N.J.	W+17 ^{1/3/}	17 x wba
N.Mex.	Not more than 52 wks ^{1/}	X ^{9/}
N.Y.	4-80 days for which otherwise eligible ^{1/3/}	Mandatory equal reduction
N.C.	1 yr. after act committed or after last wk. in which benefits fraudulently received, whichever is later	X ^{9/}
N.Dak.	W+51	X ^{9/}
Ohio	Duration of unemployment +6 wks. in covered work	X ^{12/}
Okla.	W+51 ^{1/3/}	BP or BY may not be established during period
Oreg.	Up to 26 wks; if convicted, until benefits repaid or withheld ^{1/}	If convicted, all wage credits prior to conviction canceled ^{6/}
Pa.	2 wks. plus 1 wk. for each wk. of fraud or, if convicted of illegal receipt of benefits, 1 yr. after conviction ^{2/3/11/}	X ^{9/}
P.R.	W+7 ^{1/3/}	X ^{9/}
R.I.	If convicted, 1 yr. after conviction	X ^{9/}
S.C.	W+10-52 ^{1/}	(4)
S.Dak.	1-52 wks. ^{1/}	(4)
Tenn.	W+4-52	(4)
Tex.	Current BY	Benefits or remainder of BY canceled
Utah	W+51; and until benefits received fraudulently are repaid	X ^{9/}
Vt.	If not prosecuted, until amount of fraudulent benefits are repaid or withheld +1-26 wks ^{1/}	(4)
Va.	W+52 and until benefits repaid up to 5 yrs.; if convicted, 1 yr. after conviction ^{1/3/}	(4)
Wash.	Wk. of fraudulent act +26 wks. following filing of first claim after determination of fraud ^{2/}	X ^{9/}
W.Va.	W+5-52 wks ^{1/13/}	Mandatory reduction of 5 x wba for each wk. of disqualification
Wis.	Each wk. of fraud	1-3 wks. ^{2/14/}
Wyo.	If convicted, 4 wks. for each wk. of fraud	All accrued benefits forfeited ^{3/}

(Footnotes on next page)

ELIGIBILITY

(Footnotes for Table 409)

¹/_W means wk. in which act occurs plus the indicated number of consec. wks. following. Period of disqualification is measured from date of determination of fraud, Alaska, Hawaii, Idaho, Md., Mont., N.H., N.Mex., Okla., P.R., S.C., and Va.; mailing date of determination, Maine; date of redetermination of fraud, Vt.; date of claim or registration for work, Ariz., and W.Va.; wk. determination is mailed or served, or any subsequent wk. for which individual is first otherwise eligible for benefits; or if convicted, wk. in which criminal complaint is filed, Calif.; waiting or compensable wk. after its discovery, Conn., Fla., Mass., N.Y., and S.Dak.; as determined by agency, Miss., and Oreg.; date of discovery of fraud, Ky., Mich., and N.J.; waiting or compensable wk. after determination mailed or delivered, Ark.

²/_{Provision applicable at discretion of agency.}

³/_{Provision applicable only if claim filed within 3 yrs. following date determination was mailed or served, Calif.; 2 yrs. after offense, Alaska, Ariz., Hawaii, Md., N.Y., and P.R.; if claim is filed within 2 yrs. after discovery of offense, Conn.; in current BY or one beginning within 12 months following discovery of offense, N.J.; if determination of fraud is made within 12 months after offense, Ga.; and within 2 yrs. after offense, Ky., Okla., and Va.; if proceedings are not undertaken, Hawaii and P.R.; if claim is filed within 2 yrs. following determination of fraud, Pa. and Wash.; if claim is filed within 2 yrs. after conviction, Wyo.}

⁴/_{Before disqualification period ends, wage credits may have expired in whole or in part depending on disqualification imposed and/or end of BY.}

⁵/_{Statutory provision is 1-52 wks. according to circumstances. By regulation: 13 wks. for failure to report wages for 1 wk.; 26 wks. for failure to report wages for 2 wks.; and 52 wks. for such failure for 3 or more wks.}

⁶/_{Cancellation of all wage credits means that period of disqualification will extend into 2d BY, depending on amount of wage credits for such a yr. accumulated before fraudulent claim.}

⁷/_{Disqualification may be served concurrently with a disqualification imposed for any of the 3 major causes if individual registers for work for such wk. as required under latter disqualifications.}

⁸/_{See sec. 455.03 for explanation of period of disqualification.}

⁹/_{Before disqualification period ends, wage credits will have expired in whole or in part, depending on end of BY.}

¹⁰/_{Penalty is equal to greater of amount fraudulently received or current wba unless 3 yrs. have elapsed from notification to repay.}

¹¹/_{And until benefits withheld or repaid if finding of fault on the part of the claimant has been made, Pa.; and forfeiture of first 6 wks. of benefits otherwise payable within 52 wks. following restitution, Mich.}

¹²/_{And earnings of 3 x the aww or \$360, whichever is less. In addition, claims shall be rejected within 4 yrs. and benefits denied for 2 wks. for each weekly claim canceled.}

¹³/_{For each wk. of disqualification for fraudulent claim, an additional 5-wk. disqualification is imposed.}

¹⁴/_{Compensable wks. within 2-yr. period following date of determination of fraud for concealing earnings or refusal of job offer.}

ELIGIBILITY

TABLE 410.--EFFECT OF DISQUALIFYING INCOME ON WEEKLY BENEFIT AMOUNT, 46 STATES^{1/}

State (1)	Old-age insurance benefits (12 States) (2)	Pension plan of--		Workmen's compensa- tion ^{2/} (24 States) (5)	Wages in lieu of notice (33 States) (6)	Dismissal payments (19 States) (7)
		Base- period employer (22 States) (3)	Any em- ployer (13 States) (4)			
Ala.	.....	R	.....	R <u>2/</u>	D <u>3/</u>	D
Alaska	.....	.....	.....	.....	D <u>3/</u>	.....
Ark.	.....	R <u>7/</u>	.....	.....	R <u>3/</u>	D <u>13/</u>
Calif.	.....	.....	.....	R <u>2/</u>	D	.....
Colo.	R <u>4/</u>	R <u>7/</u>	.....	R <u>2/</u>	D	.....
Conn.	.....	R <u>7/</u>	.....	D <u>2/12/</u>	D	D <u>13/</u>
Del.	.....	R <u>5/</u>	.....	.....	.....	.....
D.C.	.....	R	.....	.....	.....	.....
Fla.	(⁵)	R <u>5/7/</u>	.....	R <u>2/</u>	R	.....
Ga.	.....	.....	.....	D <u>2/</u>	D	.....
Idaho	R	.....	R <u>7/</u>	.....	.....	.....
Ill.	.....	.....	R <u>5/</u>	R <u>2/</u>	.....	.....
Ind.	.....	R <u>6/</u>	.....	.....	R <u>10/</u>	R <u>10/</u>
Iowa	R	.....	R <u>7/</u>	R <u>2/</u>	R	.....
Kans.	.....	.....	.....	D <u>2/</u>	.....	.....
Ky.	.....	.....	.....	.....	R	.....
La.	.....	R	.....	R <u>2/</u>	R	.....
Maine	.....	R <u>7/</u>	.....	.....	R	R
Md.	.....	R <u>5/</u>	(⁷)	.....	R <u>10/</u>	R <u>10/</u>
Mass.	.....	R <u>5/7/15/</u>	.....	D <u>2/</u>	R <u>10/</u>	.....
Mich.	.....	R <u>5/</u>	.....	.....	R	.....
Minn.	R	.....	R <u>8/</u>	R <u>2/</u>	R	R
Miss.	R	R	.....	.....	R	R
Mo.	.....	.....	R <u>5/7/</u>	R	R	R
Mont.	.....	(⁸)	.....	D <u>2/</u>	D	D
Nebr.	R	.....	R <u>5/7/</u>	R	R	R
Nev.	.....	.....	.....	.....	D	.....
N.H.	.....	.....	.....	R	R	R
N.J.	.....	.....	.....	.....	D	.....
N.Y.	.....	R <u>5/6/</u>	.....	.....	.....	.....
N.C.	.....	.....	.....	.....	D	D
Ohio	.....	.....	R <u>5/7/</u>	R	R	R
Okla.	R <u>9/</u>	.....	R	.....	.....	.....
Oreg.	D <u>9/</u>	.....	R	.....	.....	R
Pa.	.....	R <u>5/</u>	.....	.....	.....	.....
R.I.	.....	.....	.....	R	.....	.....
S.Dak.	.....	.....	R <u>8/</u>	R	R	.....
Tenn.	.....	R <u>4/7/8/</u>	.....	D	D	.....
Tex.	R <u>5/</u>	D <u>2/</u>	D
Utah	R <u>5/</u>	R <u>5/</u>	R	R
Vt.	R	R
Va.	R <u>6/</u>	R
Wash.	R <u>5/14/</u>	R
W.Va.	R	D <u>2/</u>	D	D
Wis.	(¹¹)	(¹¹)	D <u>2/</u>	R <u>10/</u>
Wyo.	R	R

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(Footnotes for Table 410)

^{1/}"R" means weekly benefit is reduced by weekly prorated amount of the payment.
"D" means no benefit is paid for the week of receipt.

^{2/}See text for types of payments listed as disqualifying income in States noted. In other States disqualification or reduction applies only to payments for temporary partial disability.

^{3/}By regulation, Alaska; by interpretation, Calif.

^{4/}Deduction also made if claimant is entitled to receive OASI benefits although such benefits are not actually being received, provided claimant is at least 65 yrs. old, Colo.; if claimant entitled to receive pension, Tenn.

^{5/}In States noted, the deductible amount is: amount by which portion provided by ER exceeds claimant's wba, Del.; entire pension combined with OASI benefits; OASI benefits not deductible unless claimant is receiving retirement income from a BP employing unit, Fla.; 1/2 of pension if plan is partially financed by ER, or entire pension if plan is wholly financed by ER, Ill., Md., Nebr.; 50% of weekly retirement benefit, Mass.; entire pension deducted if chargeable ER paid entire cost; one-half if claimant paid less than half; no deduction if claimant paid half or more, Mich.; portion provided by the ER, Mo.; no deduction if ER paid less than 50%; 1/2 of pension if ER contributed at least 50%; entire pension if ER contributed 100%, N.Y.; entire pension if wholly ER financed; no reduction if partially financed by employees, Ohio; that portion of retirement benefit in excess of \$40 per wk. if paid under a plan to which a BP employer has contributed, Pa.; and 1/2 of pension, Utah; prorated weekly payment in excess of \$12, Wash.

^{6/}If retirement payment made under plan to which contributions were made by chargeable ER; or most recent ER for whom claimant worked 30 days, Va.

^{7/}Provision disregards retirement pay or compensation for disability retirement, Ark.; for service-connected disabilities Colo., Iowa, Nebr., and Ohio, or pension based on military service, Ark., Conn., Fla., Idaho, Iowa, Maine, Mo., Nebr., and Ohio, and Tenn.; retirement, retainer, or disability benefits based on military service by either the claimant or deceased spouse if survivor remains unmarried, Md.; Federal pensions disregarded until July 6, 1975, Mass.

^{8/}Wba reduced if 50% or more of financing is provided by BP employer, Tenn. or by ER, Minn. and S.Dak. Wage credits earned with ER from whom retired are not used in computing unemployment benefits after retirement if entitlement under retirement plan prorated on weekly basis exceeds average wba paid during prior FY, Mont.

^{9/}Claimant eligible to receive OASI benefits is ineligible for unemployment benefits unless and until it is demonstrated that claimant has not voluntarily withdrawn from the labor force.

^{10/}Reduction as wages for a given wk. only when definitely allocated by close of such wk., payable to the employee for that week at full applicable wage rate, and employee has had due notice of such allocation, Wis.; excludes greater of first \$3 or 1/5 wba from other than BP employer, Ind.; not applicable if claimant's unemployment caused by abolition of job for technological reasons or as result of termination of operations at place of employment, Md. Excludes first \$10 from deduction, Mass.

^{11/}Disqualified under voluntary quit provision if claimant receives or is eligible to receive retirement payments under plan to which any ER has contributed substantially or under a governmental system, including OASI, if retired from

(Footnotes continued on next page)

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(Footnotes for Table 410 continued)

chargeable ER before reaching compulsory retirement age of that ER. If he left or lost such employment at compulsory retirement age, wba reduced by the amount of the weekly retirement payment to which the ER has contributed, if that amount is separately calculated or can be estimated. Wba reduced by all but \$10 of employee's weekly retirement payment under other retirement systems.

12/ If workmen's compensation benefits received subsequent to receipt of unemployment benefits, individual liable to repay unemployment benefits in excess of workmen's compensation benefits.

13/ Not applicable to severance payments or accrued leave pay based on service for the Armed Forces.

14/ Deduction does not apply if the retirement income is based on wages earned prior to the BP.

15/ Not applicable to involuntarily unemployed worker whose base-period ER was subject to FICA but not eligible for social security benefits because of age.